

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.2914 Discharge in bankruptcy; cancellation of judgment, procedure; notice to judgment creditor; judgments from other states; "judgment" defined; judgments under § 257.513.

Sec. 2914. After a bankrupt has been discharged from his debts pursuant to the federal laws relating to bankruptcy, the bankrupt, his receiver, his trustee, or any other interested person or corporation may apply to have a judgment debt canceled and discharged of record upon proof of the bankrupt's discharge. Application for equitable relief shall be made to the court in which the judgment was rendered against the bankrupt, or if it was rendered in a court not of record, application shall be made to the court in which it became a judgment by docketing. If it appears upon the hearing that he has been discharged from the payment of that judgment or the debt upon which that judgment was recovered, an order shall be made directing that the judgment be canceled and discharged of record. This order shall recite that the judgment is canceled and discharged because of the bankrupt's discharge in bankruptcy. The clerk of the court shall then discharge the judgment by marking on the docket that the judgment is canceled and discharged by order of the court because of the defendant's discharge in bankruptcy, and the clerk shall mark the date and entry of the order of discharge.

(1) Notice of the application, accompanied by copies of the papers on which it is based, must be served on the judgment creditor or his attorney of record in the judgment, if the residence or place of business of either the creditor or his attorney of record is known, at least 30 days prior to the date of the hearing of the application. Upon proof by affidavit that the residences and places of business of both are unknown and after due diligence cannot be ascertained or upon proof by affidavit that the creditor is not a resident of this state and his attorney is dead or removed from this state or cannot be found within this state, the judge of the court before which the application is pending may make an order that the notice of the application be published once a week for 3 successive weeks in the newspaper that he shall designate. This publication shown by affidavit of the publisher shall be sufficient service of the application upon the judgment creditor.

(2) No action or proceeding shall be prosecuted in any of the courts of this state to enforce any judgment rendered in any court of any other state of the United States which would be subject to cancellation and discharge under the provisions of this section had the judgment been rendered by a court of this state.

(3) The word judgment as used in this section is here defined to include any decree or order for the payment of money dischargeable pursuant to the federal law relating to bankruptcy.

(4) Nothing contained in this section shall be deemed to supersede or abrogate the provisions of section 513 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.513 of the Compiled Laws of 1948.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1962, Act 187, Imd. Eff. May 24, 1962.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4001 Attachment; ex parte application; service of writ; jurisdiction.

Sec. 4001. Upon ex parte application showing that the person against whom a claim is asserted is not subject to the judicial jurisdiction of the state or, after diligent effort, cannot be served with process as required to subject him to the judicial jurisdiction of the state, the circuit court shall have the power by attachment to apply to the satisfaction of the claim due or to become due any interest in things which are subject to the judicial jurisdiction of the state and belonging to the person against whom the claim is asserted. A copy of the writ of attachment shall be served upon the person against whom the claim is made in the same manner as provided by rules of the supreme court for service of process in other civil actions in which personal jurisdiction over the defendant is not required. The court may exercise the jurisdiction granted in this section only if action is taken in accordance with rules adopted by the supreme court to protect the parties.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 371, Eff. Apr. 1, 1975.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4011 Garnishment; property or obligation applicable to satisfaction of claim; jurisdiction; state and governmental units as garnishees; ex parte application for writ of garnishment; service; conditions to commencement of garnishment proceeding; immunity of sheriff or other public officer; fee; conveyance of money or property.

Sec. 4011. (1) Subject to sections 4061 and 4061a, and the conditions in subsections (2) to (10), the court has power by garnishment to apply the following property or obligation, or both, to the satisfaction of a claim evidenced by contract, judgment of this state, or foreign judgment, whether or not the state has jurisdiction over the person against whom the claim is asserted:

(a) Personal property belonging to the person against whom the claim is asserted but which is in the possession or control of a third person if the third person is subject to the judicial jurisdiction of the state and the personal property to be applied is within the boundaries of this state.

(b) An obligation owed to the person against whom the claim is asserted if the obligor is subject to the judicial jurisdiction of the state.

(2) Except as provided in sections 4061 and 4061a, the court may exercise the jurisdiction granted in this section only in accordance with the Michigan court rules. Except as otherwise provided by sections 4061 and 4061a and the Michigan court rules, the state and each governmental unit within the state, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, may be proceeded against as a garnishee in the same manner and with the same effect as a proceeding against an individual garnishee.

(3) A writ of garnishment may be issued before judgment only as provided in this subsection. Upon ex parte application showing that the person against whom the claim is asserted is not subject to the judicial jurisdiction of the state or, after diligent effort, cannot be served with process as required to subject the person to the judicial jurisdiction of the state, a copy of the writ of garnishment shall be served upon the person against whom the claim is made in the same manner as provided by the Michigan court rules for service of process in other civil actions in which personal jurisdiction over the defendant is not required. Upon entry of judgment in the principal action, the obligation or property garnished shall be applied to the satisfaction of the judgment.

(4) A garnishment proceeding shall not be commenced against the state or a governmental unit of the state, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, until after the plaintiff's claim has been reduced to judgment.

(5) A garnishment proceeding shall not be commenced against a person for money owing to a defendant on account of labor performed by the defendant until after the plaintiff's claim has been reduced to judgment.

(6) A sheriff or other public officer is not subject to garnishment for money or things received or collected by him or her pursuant to an execution or other legal process in the favor of the defendant or because of any money in his or her hands for which he or she is accountable merely as a public officer to the defendant.

(7) A garnishment proceeding shall not be commenced if the commencement of such a proceeding is forbidden by a statute of this state.

(8) Except as otherwise provided in sections 4012 and 4061, a plaintiff shall pay a fee of \$1.00 to the garnishee at the time the garnishee is served with a writ of garnishment.

(9) If the court or garnishee possesses money or property pursuant to a writ of garnishment after the court releases the garnishee from liability under that writ, the court shall convey or order the conveyance of the money or property to any of the following, as the court determines appropriate:

(a) The defendant's attorney, if the defendant is represented by counsel in the garnishment proceeding.

(b) The defendant, if the defendant is not represented by counsel in the garnishment proceeding.

(c) The plaintiff.

(10) A writ of garnishment is not effective if both of the following conditions are met:

(a) The plaintiff fails to provide the garnishee with information sufficient for the garnishee to identify the defendant.

(b) The garnishee provides the court with written notice of the insufficiency described in subdivision (a).

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 371, Eff. Apr. 1, 1975;—Am. 1994, Act 346, Eff. Mar. 1, 1995.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.4012 Writ of garnishment as to periodic payments; duration; priority of writs of garnishment; liability of garnishee defendant; fee; "periodic payments" defined.

Sec. 4012. (1) Except for garnishment of a tax refund under section 4061a, and subject to subsection (2), a writ of garnishment of periodic payments remains in effect for the period prescribed by the Michigan court rules.

(2) A garnishee is not liable for a writ of garnishment of periodic payments under subsection (1) to the extent that the garnishee is required to satisfy another writ of garnishment against the same defendant having a higher priority or having the same priority but received at an earlier date. For purposes of this subsection, writs of garnishment have priority in the following order:

(a) A garnishment resulting from an obligation of court ordered support as defined in section 2 of the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being section 552.602 of the Michigan Compiled Laws.

(b) A levy of the state or a governmental unit of the state to satisfy a tax liability.

(c) Any other garnishments, in the order in which they are served.

(3) Except as otherwise provided by statute, a plaintiff shall pay a fee of \$6.00 at the time a writ to the garnishee of garnishment of periodic payments is served upon the garnishee.

(4) As used in this section and section 8410a, "periodic payments" means wages, salary, commissions, and other earnings, land contract payments, rent, and other periodic debt or contract payments that are or become payable during the effective period of the writ of garnishment. Periodic payments do not mean any of the following:

(a) Payments by a financial institution of interest on a deposit account.

(b) Charges made by a financial institution automatically against an account which applies to a debt under an automatic payment authorization executed by the account owner.

(c) Payments made by a financial institution to honor a check or draft or to comply with an account holder's order of withdrawal of funds from an account.

(d) Interest earned on a certificate of deposit that is paid into a deposit account.

History: Add. 1991, Act 67, Eff. Dec. 31, 1991;—Am. 1994, Act 175, Imd. Eff. June 20, 1994;—Am. 1994, Act 346, Eff. Mar. 1, 1995;—Am. 1996, Act 10, Eff. June 1, 1996.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.4015 Actions as cause of discipline or discharge of principal defendant from employment; reinstatement; civil action.

Sec. 4015. A garnishee defendant shall not use the fact that the principal defendant has had 1 or more actions brought against him under the provisions of this chapter or section 8306 as a cause of discipline or discharge of the principal defendant from employment. A garnishee defendant who violates the provisions of this section shall be required to reinstate the principal defendant to employment and reimburse all compensation lost by the discipline or discharge. The principal defendant may enforce his rights under this section by appropriate civil action.

History: Add. 1974, Act 371, Eff. Apr. 1, 1975.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.4021 Attachment; venue.

Sec. 4021. The county in which some of the property to be attached is situated is a proper county of venue for attachment.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 371, Eff. Apr. 1, 1975.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.4025 Venue; garnishment.

Sec. 4025. The county which would be a proper county of venue as designated in RJA chapter 16 of an action against the defendant who is garnisheed is a proper county of venue for garnishment if

(1) the county is designated in RJA chapter 16 as a proper county of venue of the action against the principal defendant; or

(2) there is no common proper county of venue designated in RJA chapter 16 of an action against the principal and garnishee defendant; or

(3) personal jurisdiction cannot be obtained over the principal defendant.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4031 Exemptions; attachment and garnishment; partial exemptions.

Sec. 4031. (1) The provisions of the statutes relating to exemptions from execution, and the manner of levying upon property belonging to a class or species in which exemptions are by law allowed, shall be applicable to the application of property and obligations to claims by attachment and garnishment.

(2) In any garnishment proceeding where the indebtedness of the garnishee to the principal defendant is money owed to the principal defendant on account of

(a) the sale to the garnishee of milk or cream or both produced on the farm or farms of the principal defendant, the garnishee's liability to the plaintiff is limited to 40% of such money;

(b) personal labor performed by the principal defendant or his family, the garnishee's liability to the plaintiff is limited by the exemptions allowed under section 7511.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4035 Attachment; effect; personalty; realty.

Sec. 4035. An attachment shall bind goods and chattels from the time they were attached. An attachment of realty or any right or interest therein shall constitute a lien thereon, effective from the time when a certified copy of the attachment including a description of the realty shall be deposited in the office of the register of deeds in the county where the realty is situated.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4041 Attachment on realty; discharge.

Sec. 4041. Any attachment on realty or any right or interest therein shall be discharged upon the record thereof by the register of deeds whenever there shall be presented to him a certificate executed by the sheriff, and approved by the plaintiff, his personal representatives or assigns, or his attorney of record in said cause, duly acknowledged; specifying that the attachment has been removed or otherwise satisfied or discharged; or upon the presentation to the register of deeds of the certificate of the circuit court for the county, signed by the sheriff and the clerk of the court and seal thereof, certifying that it has been made to appear to the court that the attachment has been duly removed or otherwise settled.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4045 Attachment or garnishment; dissolution by bond.

Sec. 4045. In every case where property is attached or garnishment is served, the attachment or garnishment may be dissolved by the posting of a bond in accordance with the rules of the supreme court.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4051 False answer by garnishee or agent; civil liability.

Sec. 4051. Any person summoned as a garnishee or any officer, agent, or other person who appears and answers for a corporation summoned as a garnishee, who knowingly and wilfully answers falsely upon his disclosure or examination on oath is liable to the plaintiff in garnishment, or to his executors or administrators, to pay out of his own goods and estate the full amount due on the judgment recovered with interest, to be recovered in a civil action.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4061 Garnishment against state; employees designated to receive process; procedures.

Sec. 4061. (1) A plaintiff shall serve garnishment process issued from a court in Michigan against the state of Michigan upon the state treasurer or other state employee designated by the state treasurer to receive

garnishment process. The state treasurer shall designate as many employees as he or she considers necessary to receive garnishment process, at least 2 of whom shall have offices in Lansing.

(2) The state treasurer shall designate the employees under subsection (1) in writing and maintain a copy of the written designation in the state treasurer's office. If the state treasurer revokes the designation, the revocation shall be made in the same manner as the designation. If a designated employee ceases to be employed by the state treasurer to receive process under subsection (1), the designation of that person is revoked immediately upon termination of his or her employment.

(3) In a garnishment proceeding in which the state is the garnishee, a plaintiff shall do all of the following:

(a) Serve upon the state treasurer or designated employee a writ of garnishment that includes a verified statement signed by the plaintiff, or his or her attorney or agent, identifying the full amount including interest and taxed costs, claimed by the plaintiff to be due upon the judgment against the defendant.

(b) At the time of service of the writ of garnishment, pay to the state treasurer or designated employee a fee of \$6.00.

(c) Within 7 days after service of the writ of garnishment on the state treasurer or designated employee, do both of the following:

(i) If the writ of garnishment is for a state tax refund or credit, serve a copy of the writ of garnishment upon the defendant in the manner prescribed by the Michigan court rules.

(ii) Serve upon the state treasurer any discovery request for information related to the garnishment proceeding that may be in the possession of the department of treasury.

(4) After receiving a discovery request pursuant to subsection (3)(c), the state treasurer shall provide only that information in the possession of the department of treasury that is not otherwise exempted by law from disclosure. The plaintiff shall pay to the state treasurer the reasonable costs incurred by the state treasurer in providing the requested information.

(5) After receiving service of a writ of garnishment as provided in subsection (3), the state treasurer or designated employee shall do 1 of the following:

(a) If the writ is not for the garnishment of a state tax refund or credit, respond in the manner prescribed for garnishment procedures under the Michigan court rules.

(b) If the writ is for garnishment of a state tax refund, respond in the manner prescribed by section 4061a.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1994, Act 346, Eff. Mar. 1, 1995.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.4061a Interception of state tax refund or credit.

Sec. 4061a. (1) The state treasurer shall intercept a state tax refund or credit that is subject to a writ of garnishment served upon the state treasurer pursuant to section 4061. Upon intercepting a state tax refund or credit pursuant to a writ of garnishment, the state treasurer shall do all of the following:

(a) Calculate the amount available from the interception to satisfy all or part of the garnishment, and within 90 days after establishing other liability for which the state tax refund or credit may be applied under section 30a of Act No. 122 of the Public Acts of 1941, being section 205.30a of the Michigan Compiled Laws, do both of the following:

(i) File with the court a verified disclosure that identifies the intercepted amount, less any setoff, counterclaim, or other demand of the state against the defendant.

(ii) Serve upon the plaintiff and defendant a copy of the disclosure described in subparagraph (i).

(b) Unless notified by the court that objections to the writ of garnishment have been filed, deposit the amount available for the garnishment with either of the following pursuant to the terms of the writ not less than 28 days after filing the disclosure pursuant to subdivision (a):

(i) The clerk of the court.

(ii) The plaintiff's attorney of record in the garnishment action, or, if the plaintiff is not represented by counsel, the plaintiff or the plaintiff's designee.

(2) Objections to the writ of garnishment of a tax refund shall be filed with the court within 14 days after the date of service of the disclosure on the defendant.

(3) If an interception of a state tax refund or credit does not occur before October 31 of the year during which a writ of garnishment for a state tax refund or credit is to be processed, both of the following apply:

(a) The state treasurer is not required to provide to the defendant or file with the court a disclosure.

(b) The state treasurer is not required to provide to the plaintiff a disclosure unless the plaintiff provides the state treasurer with a written request for a disclosure between November 1 and December 31 of the tax year following the tax year for which a writ of garnishment of a state tax refund or credit was filed.

(4) A disclosure described in subsection (1) is not required to be made under oath.

(5) The state's liability to the plaintiff under a writ of garnishment issued under this section is limited to the amount of the tax refund or credit due to the defendant for the period the writ is in effect, less any setoff, counterclaim, or other demand of the state against the defendant. As used in this subsection, "state" includes the state treasurer.

(6) If all or a portion of an intercepted state tax refund or credit is deposited with the clerk of the court under subsection (1), the court shall convey the deposited amount to the plaintiff's attorney of record in the garnishment action or, if the plaintiff is not represented by counsel, to the plaintiff.

(7) Michigan court rules that do not conflict with this section or section 4061 govern a garnishment in which the state is a garnishee.

(8) As used in this section, "state treasurer" includes an employee designated by the state treasurer to act on his or her behalf.

History: Add. 1994, Act 346, Eff. Mar. 1, 1995.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4065 Evidence in criminal proceedings; disclosure.

Sec. 4065. No disclosure made under the provisions of the garnishment statutes or rules shall be used in evidence upon a criminal prosecution except upon a prosecution of the garnishee for perjury in making his disclosure.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4951 Mediation of civil action based on tort; exception; time for referring action to mediation; hearing.

Sec. 4951. (1) Each civil action based on tort in which it is claimed that damages exceed \$10,000.00, except an action alleging medical malpractice, shall be mediated pursuant to this chapter.

(2) The judge to whom a civil action as prescribed in subsection (1) is assigned or the chief judge shall refer the action to mediation by written order not less than 91 days after the filing of the answer or answers.

(3) A civil action referred to mediation pursuant to subsection (2) shall be heard by a mediation panel selected pursuant to section 4953.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4953 Mediation panel; selection and qualifications of member; judge as member; grounds for disqualification as mediator.

Sec. 4953. (1) Mediation panels shall be composed of 3 members.

(2) The procedure for selecting mediation panel members and their qualifications shall be as prescribed by the Michigan court rules or local court rules.

(3) A judge may be selected as a member of a mediation panel, but may not preside at the trial of any action in which he or she served as a mediator.

(4) The grounds for disqualification of a mediator are the same as that provided in the Michigan court rules for the disqualification of a judge.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

REVISED JUDICATURE ACT OF 1961 (EXCERPT) **Act 236 of 1961**

600.4955 Mediation clerk; designation; setting time and place for mediation hearing; notice; adjournments.

Sec. 4955. (1) The court shall designate the clerk of the court, the court administrator, the assignment clerk, or some other person to serve as the mediation clerk.

(2) The mediation clerk shall set a time and place for the mediation hearing and send notice to the mediators and the attorneys at least 28 days before the date set for the mediation hearing.

(3) Adjournments of mediation hearings may be granted only for good cause, in accordance with the Michigan court rules.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

REVISED JUDICATURE ACT OF 1961 (EXCERPT) **Act 236 of 1961**

600.4957 Mediation fee.

Sec. 4957. (1) Within 14 days after the mailing of the notice of the mediation hearing, each party shall submit payment to the mediation clerk of a mediation fee of \$75.00 in the manner specified in the notice of the mediation hearing. However, if a judge is a member of the panel, the fee is \$50.00. Only a single fee is required of each party, even if there are counterclaims, cross-claims, or third-party claims. The mediation clerk shall arrange payment to the mediators.

(2) If a claim is derivative of another claim, the claims shall be treated as a single claim, with 1 fee to be paid and a single award made by the mediators.

(3) In the case of multiple injuries to members of a single family, the plaintiffs may elect to treat the action as involving 1 claim, with the payment of 1 fee and the rendering of 1 lump sum award to be accepted or rejected. If such an election is not made, a separate fee shall be paid for each plaintiff, and the mediation panel will then make separate awards for each claim, which may be individually accepted or rejected.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.4959 Submission of documents and brief or summary to mediation clerk; penalty for failure to submit materials.

Sec. 4959. (1) At least 7 days before the mediation hearing date, each party shall submit to the mediation clerk 3 copies of the documents pertaining to the issues to be mediated and 3 copies of a concise brief or summary setting forth that party's factual or legal position on issues presented by the action and, in addition, 1 copy of each shall be served on each attorney of record.

(2) Failure to submit the materials to the mediation clerk as prescribed in subsection (1) subjects the offending party to a \$60.00 penalty to be paid at the time of the mediation hearing and distributed equally among the mediators.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.4961 Right of party to attend mediation hearing; personal appearance to demonstrate unusual conditions; testimony prohibited; rules of evidence inapplicable; factual information; limitation on oral presentation; requests and inquiries by panel; admissibility of statements, briefs, or summaries.

Sec. 4961. (1) A party has the right, but is not required, to attend a mediation hearing. If scars, disfigurement, or other unusual conditions exist, they may be demonstrated to the mediation panel by a personal appearance; however, testimony shall not be taken or permitted of any party.

(2) The Michigan rules of evidence do not apply before the mediation panel. Factual information having a bearing on damages or liability shall be supported by documentary evidence, if possible.

(3) Oral presentation shall be limited to 15 minutes per side unless multiple parties or unusual circumstances warrant additional time. The mediation panel may request information on applicable insurance policy limits and may inquire about settlement negotiations, unless a party objects.

(4) Statements by the attorneys with regard to mediation under this chapter and the briefs or summaries presented are not admissible in any court or evidentiary proceeding.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

Rendered Wednesday, March 14, 2007

circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4963 Evaluation by panel; notice; indicating award not unanimous; determination that action or defense is frivolous; posting cash or surety bond; payment of costs and attorney fees; separate awards; treating claims as single claim.

Sec. 4963. (1) Except as otherwise provided in subsection (2), within 14 days after the mediation hearing, the panel shall make an evaluation and notify the attorney for each party of its evaluation in writing. If an award is not unanimous, the evaluation shall so indicate.

(2) If the panel unanimously determines that a complete action or defense is frivolous as to any party, the panel shall so state as to that party. If the action proceeds to trial, the party who has been determined to have a frivolous action or defense shall post a cash or surety bond, approved by the court, in the amount of \$5,000.00 for each party against whom the action or defense was determined to be frivolous. If judgment is entered against the party who posted the bond, the bond shall be used to pay all reasonable costs incurred by the other parties and any costs allowed by law or by court rule, including court costs and reasonable attorney fees.

(3) The evaluation shall include a separate award as to each cross-claim, counterclaim, or third-party claim that has been filed in the action. For the purpose of this subsection, all such claims filed by any 1 party against any other party shall be treated as a single claim.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.4965 Filing written acceptance or rejection of evaluation; failure to file as rejection; disclosure of acceptance or rejection; notice; provisions applicable to mediations involving multiple parties.

Sec. 4965. (1) Each party shall file a written acceptance or rejection of the mediation panel's evaluation with the mediation clerk within 28 days after service of the panel's evaluation. The failure to file a written acceptance or rejection within the 28 days constitutes acceptance.

(2) A party's acceptance or rejection of the panel's evaluation shall not be disclosed until the expiration of the 28-day period, at which time the mediation clerk shall send a notice indicating each party's acceptance or rejection of the panel's evaluation.

(3) In mediations involving multiple parties, the following shall apply:

(a) Each party has the option of accepting all of the awards covering the claims by or against that party or of accepting some and rejecting others. However, as to any particular opposing party, the party shall either accept or reject the evaluation in its entirety.

(b) A party who accepts all of the awards may specifically indicate that he or she intends the acceptance to be effective only if all opposing parties accept. If this limitation is not included in the acceptance, an accepting party is considered to have agreed to entry of judgment as to that party and those of the opposing parties who accept, with the action to continue between the accepting party and those opposing parties who reject.

(c) If a party makes a limited acceptance under subdivision (b) and some of the opposing parties accept and others reject, for the purposes of the cost provisions of section 4910, the party who made the limited acceptance is considered to have rejected as to those opposing parties who accept.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

In subsection (3)(c), the reference “section 4910” evidently should be “section 4969.”

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.4967 Entry of judgment; action to proceed to trial upon rejection; placing copies of evaluation, acceptances, and rejections in sealed envelope; filing envelope with clerk of court; opening envelope; evaluation not exceeding jurisdictional limitation of district court.

Sec. 4967. (1) If all the parties accept the mediation panel's evaluation, judgment shall be entered in that amount, which shall include all fees, costs, and interest to the date of judgment.

(2) In a case involving multiple parties, judgment shall be entered as to those opposing parties who have accepted the portions of the evaluation that apply to them.

(3) Except as otherwise provided in this chapter for multiple parties, if all or part of the evaluation of the mediation panel is rejected, the action shall proceed to trial.

(4) The mediation clerk shall place a copy of the mediation evaluation and the parties' acceptances and rejections in a sealed envelope for filing with the clerk of the court. In a nonjury action, the envelope shall not be opened and the parties shall not reveal the amount of the evaluation until the judge has rendered judgment.

(5) If the mediation evaluation of an action does not exceed the jurisdictional limitation of the district court, the mediation clerk shall so inform the trial judge.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.4969 Payment of actual costs; adjustment of verdict; scope of actual costs; condition prohibiting award of costs.

Sec. 4969. (1) If a party has rejected an evaluation and the action proceeds to trial, that party shall pay the opposing party's actual costs unless the verdict is more favorable to the rejecting party than the mediation evaluation. However, if the opposing party has also rejected the evaluation, that party is entitled to costs only if the verdict is more favorable to that party than the mediation evaluation.

(2) For the purpose of subsection (1), a verdict shall be adjusted by adding to it assessable costs and interest on the amount of the verdict from the filing of the complaint to the date of the mediation evaluation. After this adjustment, the verdict is considered more favorable to a defendant if it is more than 10% below the evaluation, and is considered more favorable to the plaintiff if it is more than 10% above the evaluation.

(3) For the purpose of this section, actual costs include those costs taxable in any civil action and a reasonable attorney fee as determined by the trial judge for services necessitated by the rejection of the

mediation evaluation.

(4) Costs shall not be awarded if the mediation award was not unanimous.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.5301 Assignment of future wages; notice to creditor and employer; exception.

Sec. 5301. Any person employed by any person, firm, corporation, a local government or agency, or the state, or an agency thereof, who is or may be working for wages or for a salary for others, including those paid on a commission basis or who are paid through any combination thereof, who has debts which he is unable to pay, may file a full and complete list of his creditors with the clerk of the district or municipal court where he lives or where he is employed. Upon making an assignment of all his future wages to the clerk of the court to continue during the pendency of the proceedings as hereinafter set forth, he may have a notice served upon each creditor. The notice shall set forth the fact that the proceedings are pending and contain a full list of his creditors and the amount alleged to be due to each creditor and shall prescribe a time within which the creditor shall file a sworn proof of claim with the clerk of the court, which time shall not be less than 10 days nor more than 20 days from the date of service of the notice upon the creditor and shall be signed by the clerk of the court. The notice shall act as an immediate stay of proceedings by every creditor so served as against the wages, salary, or commission so assigned. The clerk of the court shall thereupon also notify the employer of the pendency of the court proceedings in suitable form as prescribed by the court. The notice shall constitute a notification to the employer to pay any and all moneys due or to become due to the employee from thenceforth, to the clerk of the court, unless and until served with a notice to the contrary. The provisions of this chapter shall not apply to any city having a common pleas court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1969, Act 341, Eff. Jan. 1, 1970;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.5305 List of creditors; contents of petition.

Sec. 5305. The list of creditors above mentioned shall be in the form of a petition under oath and under the pains and penalties of perjury, and shall set forth whether the petitioner is a married man or not and the name, age and relationship of each person depending upon him for support and shall give the name and address of each and every creditor of the petitioner, the amount of the indebtedness, the nature of the claim, and shall contain a statement in addition to the above as to whether or not the claim is disputed by either party as to amount, and in case said claim is disputed it shall give the amount claimed by the creditor and the amount claimed by the debtor.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.5311 Exemptions.

Sec. 5311. After the filing of such petition and assignment of wages, the court shall make an order directing the clerk to pay the petitioner his legal exemptions, which shall be as follows:

(1) If the petitioner is a householder having a family, 60% but not less than \$15.00 per week for which such wages, salary or commission are due, and in addition \$2.00 per week for each person other than husband or wife under 18 years of age or incapable of self support because mentally or physically defective and legally dependent upon him for support.

(2) If the petitioner is not a householder having a family, he shall be entitled to 40% but not less than \$10.00 per week.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 21, Imd. Eff. Feb. 19, 1972.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5315 Exemptions by agreement; support of children.

Sec. 5315. If all creditors sign a written agreement so to do, the debtor may be paid more than the amounts herein provided for. If the petitioner is required by an order of a court of competent jurisdiction to pay money for the support and maintenance of children, then upon the filing with the court of a certified copy of the order, there shall be exempted such further sum as may be required to comply with the order, which the clerk shall forward to the person or official named in the order to receive the same.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5321 Distribution of balance.

Sec. 5321. The court shall further direct the clerk to pay the remainder of any moneys in his possession, over and above the exemptions of the petitioner, to the creditors, to be divided equally among all creditors listed, but the clerk shall not be obliged to make such distribution oftener than once in 60 days and then only if there is at least \$100.00 to be distributed, but when making a distribution to creditors may pay claims or unpaid balances of \$5.00 or less in full and divide the balance of the money equally among the balance of the creditors. Any money not called for by any creditor, or checks returned undelivered and remaining in the clerk's office for 6 months after the proceedings are dismissed, may be paid by the clerk to the petitioner.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5325 Clerk as agent of listed creditors; title to funds.

Sec. 5325. The clerk of the court shall be the agent of each creditor listed, as to funds paid into court to which such creditors are entitled under the provisions of this chapter, and upon payment of any such funds to the clerk of the court the title thereto shall immediately pass to the creditors entitled thereto by the provisions of this chapter and their heirs and assigns, and shall become part of the estate of such creditors. This provision shall not apply to moneys not called for by any creditor or checks returned not delivered and remaining in the clerk's office for 6 months after a petition is dismissed.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5331 Fixing amount of claim; disputed claim; costs; intervention.

Sec. 5331. (1) The judge shall fix the amount of each claim, regardless of whether or not it exceeds the jurisdiction of the court in civil actions, for the purpose of participating in the funds only. The fixing of these amounts shall not be construed to be a judgment, but a creditor may at any time during the pendency of the proceeding or afterwards, take any legal action he may desire against the debtor and any means to collect any judgment secured, excepting to garnish the assigned wages. In the case of a judgment creditor who is such when the petition is filed, the amount fixed shall be the amount of the judgment with costs and legal interest, less any payments thereon. When a creditor reduces his claim to judgment during the pendency of the proceedings, the amount of his claim for participating in the funds shall thereupon be fixed at the amount of the judgment and costs, but in such case payments previously made to creditors shall not be affected.

(2) The judge, debtor, or any creditor may dispute the claim of any creditor, at any time during the pendency of the proceedings. Upon the determination of the judge to dispute a claim, or upon the filing of a written notice of intention by the debtor or creditor to do so, the judge shall cause notice of hearing to be served on the debtor, the creditor whose claim is disputed, and the objector, and have a hearing thereon, and may issue subpoenas to compel the attendance of witnesses as in civil actions therein.

(3) Any costs incurred by the hearing may be taxed against either the debtor, the objector, or the creditor whose claim is disputed, as the judge may deem just, and may be deducted from any funds in the custody of the court which would otherwise be paid to the person against whom taxed, and paid to the person in whose favor they are taxed.

(4) Any person claiming to be a creditor of any person taking advantage of this chapter who has not been listed may intervene and prove his claim the same as though his claim had been listed.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5335 Payment of wages by employer.

Sec. 5335. Payment by any employer to the clerk of the court in pursuance of notice from the court to him or it of the filing of a petition by an employee, shall be payment to the employee the same as if received by said employee personally. Any employer who pays any wages, salary or commission to any employee after receiving notice of said assignment, shall be liable for any sums so paid on garnishment proceedings taken by any creditor.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5341 Garnishment; effect.

Sec. 5341. No creditor so named in this proceeding shall have any right to garnishee the petitioner therein, and it shall be the duty of the employer in any case when served with a notice of garnishment against said employee, nevertheless to pay said wages to the clerk of the court aforesaid together with notice that such wages have been garnisheed together with any other pertinent facts pertaining to the case. When and in case any creditor not listed shall garnishee any wages so assigned, he shall have the right to have his cost expended in said garnishment added to the amount due him by proof to the court that said garnishment was instituted in good faith and without knowledge of said assignment proceedings.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5345 Duration of assignment proceedings.

Sec. 5345. Such proceedings shall be continued indefinitely until all debts of said petitioner are paid or they may be dismissed by the court after notice to interested parties upon the petition of the debtor or upon the court's own motion or upon the petition of any creditor who can show by evidence that the debtor is attempting to deceive the court or to be unfair or is in collusion with any person, persons, firm, firms, corporation or corporations, in connection with the receivership.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5351 Secured creditors.

Sec. 5351. Nothing in this chapter shall be construed to deprive the creditor holding security from pursuing his rights under the instrument giving him such security, and no creditor shall be deprived of any remedy given him by the laws of the state except they shall not have the right to garnishee or obtain any interest in the wages, salary or commission of any person claiming the advantages of this chapter.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5355 Notices; manner of giving; change of employment.

Sec. 5355. All notices provided for in this chapter may be given by registered mail with return receipt demanded, and if the return receipt is not received the court may order the same served as process is served in said court, and the cost thereof shall be paid by the petitioner. When and if the petitioner changes his employer he shall notify the clerk of the court and execute a new assignment of his wages and the clerk shall notify the new employer.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5361 Debts incurred after filing petition; not included.

Sec. 5361. The petitioner shall not have the right to file or list any indebtedness incurred after the filing of the petition.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.5365 Statute of limitations tolled during pendency of proceedings.

Sec. 5365. The statute of limitations shall not run against any debt or liability of a petitioner during the pendency of the proceedings herein provided for, whether such indebtedness or liability existed at the time of the filing of the petition or was incurred afterwards.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.5371 Court fees upon petition; defrayment of incidental expenses.

Sec. 5371. Upon the filing of the petition and assignment of wages as herein provided, said petitioner shall pay to the clerk of said court the sum of 50 cents as a filing fee and the further sum of 50 cents for each creditor named in the petition and each year thereafter the sum of 50 cents for each creditor listed and not paid in full. In the event of any contest between the debtor and any creditor or 1 creditor and another creditor, the moving party in such contest shall before having same determined pay to the clerk of the court the sum of 50 cents as a hearing fee for such service and the court shall have the right to direct the clerk to retain from the exemptions of petitioners such sums as may be necessary to defray the actual costs for providing notices, stamps, clerical help in the clerk's office, and other incidental expenses of paying for the administration of this chapter, and charge the same to the petitioners. The clerk shall deduct from the exemptions of petitioners the fee of 50 cents per creditor above provided for second and subsequent years, unless the petitioner shall pay same when due. All fees herein provided for shall be for the use of the city.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.5375 Repealed. 1969, Act 209, Eff. Jan. 1, 1970.

Compiler's note: The repealed section pertained to receivership for wage earners; cities to which applicable.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6001 Persons to whom execution issued.

Sec. 6001. Whenever a judgment is rendered in any court, execution to collect the same may be issued to the sheriff, bailiff, or other proper officer of any county, district, court district or municipality of this state.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6002 Execution; indorsement; date; return; death or incapacity of officer serving execution; certificate; jurisdiction as to joint or joint and several obligors.

Sec. 6002. (1) Upon receipt of any execution the sheriff or other officer receiving the execution shall indorse thereon the year, month, day, and hour of receipt and that time shall be the date of the execution.

(2) Executions shall be made returnable not less than 20, nor more than 90, days from that date.

(3) When an officer has begun to serve an execution issued out of any court, on or before the return day of the execution, he may complete service and return after the return date.

(4) When an officer has begun to serve an execution and dies, or becomes incapable of completing service and return, any other officer who might by law have originally served the execution, may complete it. If the first officer fails to make a certificate, the second officer shall do so, including the doings of both officers therein. If the first officer makes a certificate, the second officer shall make a certificate as to his own doings in completing service.

(5) If there are joint or joint and several obligors and jurisdiction was not acquired over all of them, the names of those over whom jurisdiction was not acquired shall be indorsed on the execution.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6003 Execution on transcript of judgment by district, municipal, or common pleas court.

Sec. 6003. Whenever a transcript of a judgment rendered by a district, municipal, or common pleas court is filed and docketed by the clerk of the circuit court for the county, all executions thereon shall issue out of, and under the seal of, the circuit court in the same form, as near as may be, as other executions issued out of the circuit court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6004 Execution against realty; contents.

Sec. 6004. Executions against realty shall command the officer to whom they are directed to make execution against the realty of the judgment debtor only after execution has been made against the personal property of the judgment debtor that is in the county, and such personal property is insufficient to meet the sum of money and costs for which judgment was rendered.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6005 Successive or alias executions; several executions.

Sec. 6005. Successive or alias executions may be issued one after another upon return of any execution unsatisfied in whole or in part, for the amount remaining unpaid thereon. Several executions may be issued at the same time to officers of different counties, district court districts, or municipalities and enforced by them therein.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6006 Execution; new.

Sec. 6006. If an execution is returned satisfied in whole or in part, by the sale of any property which afterwards appears not to belong to the judgment debtor, or not to be liable to execution, the court may on the application of such judgment creditor, order a new execution to be issued on such judgment, for the amount then remaining justly and equitably due thereon.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6007 Execution; precedence.

Sec. 6007. If there are 1 or more executions or attachments issued against the same judgment debtor or his property, the execution or attachment first delivered for execution shall have preference; except that if there has been a levy and sale of any goods or chattels before a levy under the first execution or attachment, then such goods or chattels shall not be levied on by virtue of such first execution or attachment.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6008 Execution; set-off; balance on appeal.

Sec. 6008. (1) Executions between the same parties may be set off one against another, if required by either party as follows:

(a) When 1 of the executions is delivered for service, the person who is the debtor therein may deliver his execution to the serving officer and it shall be applied, as far as it will extend, to the satisfaction of the first execution; and such application shall be indorsed on each execution. Only the balance due on the larger execution may then be collected and paid in the same manner as if there had been no set off.

(b) Such set off shall not be allowed unless all the parties are mutual debtors and creditors. Nor shall set off be allowed where the sum due on the first execution shall have been lawfully assigned to another person

before the creditor in the second execution becomes entitled to the sum due thereon, or as to so much of the first execution as may be due to the attorney in that suit for his taxable fees and disbursements.

(2) If, upon an appeal, a recovery for a debt or damages be had by 1 party, and costs be awarded the other, execution shall issue only in favor of the party to whom there shall be a balance due, and for the amount of such balance.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6009 Execution; officer's security; recovery of expense.

Sec. 6009. Whenever there is any reasonable doubt as to the ownership by a judgment debtor of any personal property, or as to their liability to be taken upon an execution, the officer holding such execution may require of the judgment creditor sufficient security to indemnify him for taking such personal property thereon; and if such security be refused, such officer shall not be liable for omitting to take such personal property. Such judgment creditor upon demand of the officer holding such execution, upon depositing sufficient security to indemnify the officer taking such personal property, shall recover of the defendant, together with the costs of the execution levy, the reasonable cost of indemnity so deposited.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 244, Eff. Aug. 28, 1964.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6010 Execution; return; misconduct of officer; civil liability.

Sec. 6010. The officer who makes any sale on execution shall, in his return on the execution, specify the articles sold, and the sum for which each article or parcel was sold; and if he is guilty of any fraud in the sale, or in the return, or unreasonably neglects to pay any money collected by him on such execution, when demanded by the creditor therein, he shall be liable in a civil action, brought by the party injured, for 5 times the amount of the actual damages sustained by reason of such fraud or neglect.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6011 Effect of order to stay proceedings on execution.

Sec. 6011. When an execution has been issued, an order to stay proceedings thereon shall not prevent a levy on property by virtue of the execution, but shall only suspend a sale thereon until the decision of the proper court upon the matter.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6012 Execution; property bound from time of levy.

Sec. 6012. Whenever an execution issues against the property of any person, his goods and chattels, lands and tenements, levied upon by such execution, shall be bound from the time of such levy.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6013 Interest on money judgment.

Sec. 6013. (1) Interest is allowed on a money judgment recovered in a civil action, as provided in this section. However, for complaints filed on or after October 1, 1986, interest is not allowed on future damages from the date of filing the complaint to the date of entry of the judgment. As used in this subsection, "future damages" means that term as defined in section 6301.

(2) For complaints filed before June 1, 1980, in an action involving other than a written instrument having a rate of interest exceeding 6% per year, the interest on the judgment is calculated from the date of filing the complaint to June 1, 1980, at the rate of 6% per year and on and after June 1, 1980, to the date of satisfaction of the judgment at the rate of 12% per year compounded annually.

(3) For a complaint filed before June 1, 1980, in an action involving a written instrument having a rate of interest exceeding 6% per year, the interest on the judgment is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate specified in the instrument if the rate was legal at the

time the instrument was executed. However, the rate after the date judgment is entered shall not exceed either of the following:

(a) Seven percent per year compounded annually for a period of time between the date judgment is entered and the date of satisfaction of the judgment that elapses before June 1, 1980.

(b) Thirteen percent per year compounded annually for a period of time between the date judgment is entered and the date of satisfaction of the judgment that elapses after May 31, 1980.

(4) For a complaint filed on or after June 1, 1980, but before January 1, 1987, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate of 12% per year compounded annually unless the judgment is rendered on a written instrument having a higher rate of interest. In that case interest is calculated at the rate specified in the instrument if the rate was legal at the time the instrument was executed. The rate shall not exceed 13% per year compounded annually after the date judgment is entered.

(5) Except as provided in subsection (6), for a complaint filed on or after January 1, 1987, but before July 1, 2002, if a judgment is rendered on a written instrument, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate of 12% per year compounded annually, unless the instrument has a higher rate of interest. In that case, interest shall be calculated at the rate specified in the instrument if the rate was legal at the time the instrument was executed. The rate shall not exceed 13% per year compounded annually after the date judgment is entered.

(6) For a complaint filed on or after January 1, 1987, but before July 1, 2002, if the civil action has not resulted in a final, nonappealable judgment as of July 1, 2002, and if a judgment is or has been rendered on a written instrument that does not evidence indebtedness with a specified interest rate, interest is calculated as provided in subsection (8).

(7) For a complaint filed on or after July 1, 2002, if a judgment is rendered on a written instrument evidencing indebtedness with a specified interest rate, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate specified in the instrument if the rate was legal at the time the instrument was executed. If the rate in the written instrument is a variable rate, interest shall be fixed at the rate in effect under the instrument at the time the complaint is filed. The rate under this subsection shall not exceed 13% per year compounded annually.

(8) Except as otherwise provided in subsections (5) and (7) and subject to subsection (13), for complaints filed on or after January 1, 1987, interest on a money judgment recovered in a civil action is calculated at 6-month intervals from the date of filing the complaint at a rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer, and compounded annually, according to this section. Interest under this subsection is calculated on the entire amount of the money judgment, including attorney fees and other costs. The amount of interest attributable to that part of the money judgment from which attorney fees are paid is retained by the plaintiff, and not paid to the plaintiff's attorney.

(9) If a bona fide, reasonable written offer of settlement in a civil action based on tort is made by the party against whom the judgment is subsequently rendered and is rejected by the plaintiff, the court shall order that interest is not allowed beyond the date the bona fide, reasonable written offer of settlement is filed with the court.

(10) Except as otherwise provided in subsection (1) and subject to subsections (11) and (12), if a bona fide, reasonable written offer of settlement in a civil action based on tort is not made by the party against whom the judgment is subsequently rendered, or is made and is not filed with the court, the court shall order that interest be calculated from the date of filing the complaint to the date of satisfaction of the judgment.

(11) If a civil action is based on medical malpractice and the defendant in the medical malpractice action failed to allow access to medical records as required under section 2912b(5), the court shall order that interest be calculated from the date notice was given in compliance with section 2912b to the date of satisfaction of the judgment.

(12) If a civil action is based on medical malpractice and the plaintiff in the medical malpractice action failed to allow access to medical records as required under section 2912b(5), the court shall order that interest be calculated from 182 days after the date the complaint was filed to the date of satisfaction of the judgment.

(13) Except as otherwise provided in subsection (1), if a bona fide, reasonable written offer of settlement in a civil action based on tort is made by a plaintiff for whom the judgment is subsequently rendered and that offer is rejected and the offer is filed with the court, the court shall order that interest be calculated from the date of the rejection of the offer to the date of satisfaction of the judgment at a rate of interest equal to 2% plus the rate of interest calculated under subsection (8).

(14) A bona fide, reasonable written offer of settlement made according to this section that is not accepted within 21 days after the offer is made is rejected. A rejection under this subsection or otherwise does not

preclude a later offer by either party.

(15) As used in this section:

(a) “Bona fide, reasonable written offer of settlement” means either of the following:

(i) With respect to an offer of settlement made by a defendant against whom judgment is subsequently rendered, a written offer of settlement that is not less than 90% of the amount actually received by the plaintiff in the action through judgment.

(ii) With respect to an offer of settlement made by a plaintiff, a written offer of settlement that is not more than 110% of the amount actually received by the plaintiff in the action through judgment.

(b) “Defendant” means a defendant, a counter-defendant, or a cross-defendant.

(c) “Party” means a plaintiff or a defendant.

(d) “Plaintiff” means a plaintiff, a counter-plaintiff, or a cross-plaintiff.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 240, Imd. Eff. July 21, 1965;—Am. 1966, Act 276, Imd. Eff. July 12, 1966;—Am. 1972, Act 135, Eff. Mar. 30, 1973;—Am. 1980, Act 134, Eff. June 1, 1980;—Am. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1987, Act 50, Imd. Eff. June 22, 1987;—Am. 1993, Act 78, Eff. Apr. 1, 1994;—Am. 2001, Act 175, Eff. Mar. 22, 2002;—Am. 2002, Act 77, Imd. Eff. Mar. 21, 2002.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6017 Execution; personality.

Sec. 6017. Except as otherwise provided by law, execution may be made against all personal property of the judgment debtor that is liable to execution at common law, including, but not limited to the following:

(1) All abstract books, maps, plats, charts, and other records owned or kept by any person, partnership or corporation for the purpose of furnishing abstracts or information concerning title to lands in this state.

(2) Bills and other evidences of debt, issued and circulated as money unless the creditor accepts them at par value as money collected and paid, in which case they shall not be sold.

(3) Goods or chattels pledged by way of mortgage or otherwise, for the payment of money, or the performance of any contract or agreement, but only as against the pledgor and subject to the lien, mortgage or pledge existing thereon.

(4) In the case of an execution against a corporation, all corporate property.

(5) In the case of an execution against a partnership association, or a member of a partnership association, in that capacity, the personal property of such association or member, but subject to the provisions of section 2 of Act No. 191 of the Public Acts of 1877.

(6) Current money of the United States except that such money shall be taken as money collected and paid, and not sold unless it has a value of more than face value.

(7) Any share or interest of any stockholder in any corporation, that is or may be incorporated under the authority of any law of this state, unless expressly exempted by law.

(8) In the case of an execution against a corporation authorized by law to receive tolls, the franchise and all its rights and privileges, and all the other property of such corporation not otherwise exempted.

(9) The property of joint, and joint and several judgment debtors.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6018 Execution; realty.

Sec. 6018. All the real estate of any judgment debtor, including, but not limited to, interests acquired by parties to contracts for the sale of land, whether in possession, reversion or remainder, lands conveyed in fraud of creditors, equities and rights of redemption, leasehold interests including mining licenses, for mining
Rendered Wednesday, March 14, 2007

ore or minerals, but not including tenancies at will, and all undivided interests whatever, are subject to execution, levy and sale except as otherwise provided by law.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6021 Judgments; nonissuance of execution.

Sec. 6021. No execution may issue upon a judgment against:

- (1) Any township, village, city, or against the trustees or common council, or officers thereof where the action is prosecuted by or against them in their name of office;
- (2) Any corporate body or unincorporated board, having charge or control of any state institution;
- (3) Any school district;
- (4) Any county or the board of supervisors or any county officer in an action prosecuted by or against him in his name of office.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6022 Persons whose property is exempt.

Sec. 6022. Executions shall not issue:

- (1) In the case of a debt due from a deceased person, against the body or property of his or her personal representative, heir, devisee, or legatee, except for property of the deceased in their hands.
- (2) Against the sole property of a joint or joint and several judgment debtor over whom jurisdiction was not acquired.
- (3) Against the homestead of a judgment debtor under the prisoner reimbursement to the county act, Act No. 118 of the Public Acts of 1984, being sections 801.81 to 801.93 of the Michigan Compiled Laws.
- (4) Against the homestead up to a value of \$50,000.00 of a judgment debtor under the state correctional facility reimbursement act, Act No. 253 of the Public Acts of 1935, being sections 800.401 to 800.406 of the Michigan Compiled Laws.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 121, Imd. Eff. June 1, 1984;—Am. 1984, Act 405, Imd. Eff. Dec. 28, 1984.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6023 Property exempt from levy and sale under execution; lien excluded from exemption; homestead exemption; rents and profits.

Sec. 6023. (1) The following property of the debtor and the debtor's dependents shall be exempt from levy and sale under any execution:

- (a) All family pictures, all arms and accouterments required by law to be kept by any person, all wearing apparel of every person or family, and provisions and fuel for comfortable subsistence of each householder and his or her family for 6 months.
- (b) All household goods, furniture, utensils, books, and appliances, not exceeding in value \$1,000.00.
- (c) A seat, pew, or slip occupied by the judgment debtor or the judgment debtor's family in any house or place of public worship, and all cemeteries, tombs, and rights of burial while in use as repositories of the dead of the judgment debtor's family or kept for burial of the judgment debtor.
- (d) To each householder, 10 sheep, 2 cows, 5 swine, 100 hens, 5 roosters, and a sufficient quantity of hay and grain, growing or otherwise, for properly keeping the animals and poultry for 6 months.
- (e) The tools, implements, materials, stock, apparatus, team, vehicle, motor vehicle, horses, harness, or other things to enable a person to carry on the profession, trade, occupation, or business in which the person is principally engaged, not exceeding in value \$1,000.00.
- (f) Any money or other benefits paid, provided, or allowed to be paid, provided, or allowed, by any stock or mutual life or health or casualty insurance company, on account of the disability due to injury or sickness of any insured person, whether the debt or liability of such insured person or beneficiary was incurred before or after the accrual of benefits under the insurance policy or contract, except that the exemption does not apply to actions to recover for necessities contracted for after the accrual of the benefits.

(g) The shares held by any member, being a householder, of any association incorporated under the provisions of the savings and loan act of 1980, 1980 PA 307, MCL 491.102 to 491.1202, to the amount of \$1,000.00 in such shares, at par value, except that this exemption does not apply to any person who has a

homestead exempted under the general laws of this state.

(h) A homestead of not exceeding 40 acres of land and the dwelling house and appurtenances on that homestead, and not included in any recorded plat, city, or village, or, instead, and at the option of the owner, a quantity of land not exceeding in amount 1 lot, being within a recorded town plat, city, or village, and the dwelling house and appurtenances on that land, owned and occupied by any resident of this state, not exceeding in value \$3,500.00. This exemption extends to any person owning and occupying any house on land not his or her own and which the person claims as a homestead. However, this exemption does not apply to any mortgage on the homestead, lawfully obtained, except that the mortgage is not valid without the signature of a married judgment debtor's spouse unless either of the following occurs:

(i) The mortgage is given to secure the payment of the purchase money or a portion of the purchase money.

(ii) The mortgage is recorded in the office of the register of deeds of the county in which the property is located, for a period of 25 years, and no notice of a claim of invalidity is filed in that office during the 25 years following the recording of the mortgage.

(i) An equity of redemption as described in section 6060.

(j) The homestead of a family, after the death of the owner of the homestead, from the payment of his or her debts in all cases during the minority of his or her children.

(k) An individual retirement account or individual retirement annuity as defined in section 408 or 408a of the internal revenue code of 1986 and the payments or distributions from such an account or annuity. This exemption applies to the operation of the federal bankruptcy code as permitted by section 522(b)(2) of title 11 of the United States Code, 11 U.S.C. 522. This exemption does not apply to any amounts contributed to an individual retirement account or individual retirement annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to an individual retirement account or individual retirement annuity to the extent that any of the following occur:

(i) The individual retirement account or individual retirement annuity is subject to an order of a court pursuant to a judgment of divorce or separate maintenance.

(ii) The individual retirement account or individual retirement annuity is subject to an order of a court concerning child support.

(iii) Contributions to the individual retirement account or premiums on the individual retirement annuity, including the earnings or benefits from those contributions or premiums, exceed, in the tax year made or paid, the deductible amount allowed under section 408 of the internal revenue code of 1986. This limitation on contributions does not apply to a rollover of a pension, profit-sharing, stock bonus plan or other plan that is qualified under section 401 of the internal revenue code of 1986, or an annuity contract under section 403(b) of the internal revenue code of 1986.

(l) The right or interest of a person in a pension, profit-sharing, stock bonus, or other plan that is qualified under section 401 of the internal revenue code of 1986, or an annuity contract under section 403(b) of the internal revenue code of 1986, which plan or annuity is subject to the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829. This exemption applies to the operation of the federal bankruptcy code, as permitted by section 522(b)(2) of title 11 of the United States Code, 11 U.S.C. 522. This exemption does not apply to any amount contributed to a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity if the contribution occurs within 120 days before the debtor files for bankruptcy. This exemption does not apply to the right or interest of a person in a pension, profit-sharing, stock bonus, or other qualified plan or a 403(b) annuity to the extent that the right or interest in the plan or annuity is subject to any of the following:

(i) An order of a court pursuant to a judgment of divorce or separate maintenance.

(ii) An order of a court concerning child support.

(2) The exemptions provided in this section shall not extend to any lien thereon excluded from exemption by law.

(3) If the owner of a homestead dies, leaving a surviving spouse but no children, the homestead shall be exempt, and the rents and profits of the homestead shall accrue to the benefit of the surviving spouse before his or her remarriage, unless the surviving spouse is the owner of a homestead in his or her own right.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Imd. Eff. Dec. 27, 1963;—Am. 1964, Act 73, Imd. Eff. May 12, 1964;—Am. 1984, Act 83, Imd. Eff. Apr. 19, 1984;—Am. 1989, Act 5, Imd. Eff. Apr. 19, 1989;—Am. 1998, Act 61, Imd. Eff. Apr. 20, 1998.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6024 Exemptions from sale on execution; taxation; exception; purchase money mortgage sale; effect of sale of property.

Sec. 6024. (1) Nothing in this chapter shall be considered as exempting real estate from taxation or sale for taxes.

(2) No specific piece of property either real or personal, is exempt from levy or sale under execution issued upon a judgment rendered for the purchase money for the same property, and any sale of such property after the commencement of an action to recover the purchase price thereof, and the filing of notice as herein required, shall be null and void as against such an execution. The plaintiff in any such suit shall file or cause to be filed with the register of deeds of the county in which the owner of such property resides, a notice in which he shall state the time when such action was commenced, the amount claimed, that the suit was brought to recover the purchase money for the property, a description of the property, and the name of the defendant. At the time of filing such notice, the party filing the same shall pay to the register of deeds the fee authorized by law, and said register shall indorse upon such notice the date of filing the same and make the same record as in the case of a chattel mortgage.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6025 Execution; exemptions; inventory; appraisal; expenses.

Sec. 6025. (1) When a levy is made upon property of any class or species, which is exempt by law from execution to a specified number, amount or value, the officer levying such execution shall make inventory of so much of such property belonging to the judgment debtor as is sufficient, in the judgment of such officer, to cover the amount of the exemptions and satisfy the execution, and cause such property to be appraised at its cash value, by 2 disinterested freeholders of the township or city where the property is located, on oath to be administered by him to such appraisers.

(2) Where a homestead is claimed and, in the judgment of the officer or the judgment creditor, exceeds in value \$3,500.00, the officer shall have the homestead appraised by 6 such appraisers.

(3) The appraisers shall make and sign an appraisal of the value of the property and parts thereof if it can be divided and deliver such appraisal to the officer, who shall deliver a copy of the appraisal to the debtor.

(4) Appraisers are entitled to \$2.00 per day each for their services, and 6 cents per mile for traveling, in going only, such amounts to be collected upon execution from the plaintiff in execution.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Imd. Eff. Dec. 27, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6026 Selection from inventory; selection of homestead; survey; sale of property levied upon; deed.

Sec. 6026. (1) Upon inventory and appraisal, the defendant in execution, or his authorized agent, may select from the inventory the number of items or animals, or the amount of property not exceeding, according to the inventory and appraisal, the number, amount, or value exempted by law from execution. If no selection is made within 10 days following completion of inventory and appraisal, the officer shall make it.

(2) Whenever a levy is made upon, or the clerk of any court advertises for sale under any judgment upon the foreclosure of any mortgage not valid as against the homestead and so stated in the judgment, the lands and tenements of a householder whose homestead has not been platted and set apart by metes and bounds, the householder shall notify the officer at the time of making the levy or at the time of the advertising for sale what he regards as his homestead, with a description thereof, within the limits above prescribed, and the remainder alone is subject to sale under the levy or judgment. If at the time of the levy or advertising for sale the householder fails to notify the officer making the levy or advertising the property for sale, what he regards as his homestead with a description thereof, the officer making the levy or advertising the property for sale, shall call upon the householder to make his selection of a homestead out of the land, describing it minutely. If after the notice the owner of the land fails to select his homestead, the officer may select the homestead out of the land for him and the remainder over and above that part selected by the officer or by the owner of the land alone is subject to sale under the levy or judgment. If the officer making the levy or advertising the property for sale makes the selection of the homestead out of the lands levied upon or advertised for sale, he shall select lands in compact form, which shall include the dwelling house and its appurtenances thereon.

(3) If the plaintiff in execution or in the judgment is dissatisfied with the quantity of land selected and set apart as aforesaid either by the owner of the land or by the officer making the levy or advertising the land for sale, he shall cause it to be surveyed beginning at a point to be designated by the owner or by the officer making the levy or advertising for sale, and set off land in compact form including the dwelling house and its appurtenances, to the amount specified in section 6023. The expense of the survey is chargeable on the

execution or judgment and collectible thereupon.

(4) After the survey is made, the officer may sell the property levied upon or included in the judgment, and not included in the set off, in the same manner as provided in other like cases for the sale of real estate. In giving a deed of the property he may describe it according to the original levy or as described in the judgment, excepting therefrom by metes and bounds, according to the certificate of the survey, the quantity as set off as aforesaid.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6027 Homestead valued at more than \$3,500; procedure.

Sec. 6027. If the homestead of any debtor is appraised at a value of more than \$3,500.00, and cannot be divided, the debtor shall not for that reason lose the benefit of the exemption; but in such cases the officer shall deliver a notice, attached to a copy of the appraisal, to the debtor or to some of his family of suitable age to understand the nature thereof, that unless the debtor pay the officer the surplus over and above the \$3,500.00, or the amount due on the execution within 60 days thereafter, the premises will be sold.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Eff. Dec. 27, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6031 Execution sale; notice.

Sec. 6031. No sale of any goods or chattels may be made by virtue of any execution, unless at least 10 days' previous notice of such sale is given, by fastening up written or printed notices thereof, in 3 public places in the city or township where such sale is to be had, and specifying the time and place where the sale is to be had.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6032 Execution sale; personality.

Sec. 6032. No personal property may be exposed for sale on execution, unless the same is present and within the view of those attending such sale; and it shall be offered for sale in such lots and parcels as shall be calculated to bring the highest price.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6033 Execution; property partially exempt; bond.

Sec. 6033. Whenever a levy is made upon any article, belonging to a class or species which is exempt from execution to a specified amount or value, and the value thereof as determined by the appraisal, is in excess of the amount of the exemption allowed therein to the defendant in execution, levy and sale thereof may be made under the execution in the ordinary way; and unless the amount of the exemption is claimed or set off in other property, or waived, the officer shall pay to the defendant in execution, the amount of such exemption, in money from the proceeds of the sale, and the balance of such proceeds shall be applied towards the satisfaction of the execution. If at the sale no bid is made for such property, in excess of the amount of the exemption allowed therein, such property shall not be sold, but shall be returned to the defendant. If the defendant in execution, before such sale, pays to the officer the difference between the appraised value of such property, and the amount of the exemption therein, not to exceed the amount due on such execution with costs of such levy, to be applied upon the execution, such property shall not be sold, but shall be returned to the defendant: Provided, That if after such officer has completed the levy upon such property, the defendant in execution gives to such officer a sufficient bond, to be approved by him, conditioned that said defendant will deliver said property to such officer or before the time of sale, pay to him the difference between the appraised value of such property, and the amount of his exemption, not to exceed the amount due on such execution with costs accrued, then such officer may permit such defendant to have possession of such property during the period intervening between the making of the levy and the time of sale.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6034 Execution; property subject to chattel mortgage.

Sec. 6034. The purchaser at a sale of goods or chattels pledged by way of mortgage or otherwise shall be entitled to pay, before foreclosure, to the person holding the mortgage or pledge the amount actually due thereon, or otherwise perform before foreclosure, the terms and conditions of the pledge, and on payment or performance, or on full tender thereof, shall acquire all the right, interest, and property which the defendant in execution would have had in such goods and chattels if no pledge or mortgage had been made.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)**Act 236 of 1961****600.6035 Levy on perishable property; sale; order of court; notice.**

Sec. 6035. (1) Whenever the officer by virtue of any execution issued by a court, levies upon any perishable property, he shall proceed to sell it at such time, place, or manner as he may deem most beneficial for the interest of the defendant.

(2) A sale shall not be made except upon the written order of the court from which process has been issued, authorizing the sale at such time, place, and manner as the court shall judge most beneficial for the defendant. The court shall direct that notice be given to the defendant, or his agent, of the time and place of the sale, and the manner notice shall be given.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)**Act 236 of 1961****600.6036 Execution; growing grain or unharvested crops.**

Sec. 6036. When a levy is made upon grain while growing, or on any unharvested crops by virtue of any execution, the officer making such levy shall file a notice of said levy in the office of the register of deeds of the county in which such grain or crops are at the time of making such levy; and such register of deeds shall file said notice in his office, in the same manner as he is required by law to file a chattel mortgage; and such notice shall be constructive evidence to all persons of the interest of the plaintiff in the execution, and shall be entitled to the same fees therefor, to be paid by the plaintiff in the execution, and shall be collected as costs in the case, and no sale of said crops or grain may be made until the same are ripe or fit to be harvested, and any levy thereon by virtue of an execution issued from a circuit court, shall be continued beyond the return day thereof, if necessary, and remain in life, and the execution thereof may be completed at any time within 30 days after such grain or other unharvested crops are ripe or fit to be harvested.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)**Act 236 of 1961****600.6037 Execution; corporate shares; seizure by officer; furnishing certificates of shares held by defendant; writ; record of transfer; restraint on transfer; dividends after levy.**

Sec. 6037. (1) No attachment or levy upon shares of stock for which a certificate is outstanding, is valid until such certificate is actually seized by the officer making the attachment or levy, or is surrendered to the corporation which issued it, or its transfer is enjoined or restrained.

(2) The officer of any company who is appointed to keep a record or account of the shares or interest of the stockholders therein or in whose office there is required to be kept any list or statement showing the stockholders of such corporation and the number of shares held by each or their interest therein, is, upon exhibiting to him the attachment or execution, bound to give the officer a certificate of the number of shares or amount of the interest held by the defendant named in such attachment or the judgment debtor.

(3) Whenever any corporate shares of stock are attached or taken in execution, the officer shall leave a copy of the attachment or execution, certified by him, with the clerk, treasurer, cashier or agent of the corporation, if there is any such officer, and if not, then with any officer or person who has at the time the custody of the books and papers of the corporation within this state.

(4) A copy of the execution and the return thereon, certified by the officer executing the same, shall, within 14 days after the sale be left with the officer of the company whose duty it is to keep a record of the transfer of shares; and the purchaser shall thereupon be entitled to a certificate or certificates of the shares bought by him, upon paying the fees therefor, and for recording the transfer.

(5) Any court from which any attachment or execution is issued, shall have full power and authority upon motion, and without notice, to make an order restraining the transfer of any such shares of stock, and upon the service of a certified copy of such order, the same shall be fully effectual.

(6) If the shares or interest of the judgment debtor are attached in the suit in which the execution issued, the purchaser is entitled to all the dividends which have accrued after the levying of the attachment.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6038 Execution; franchise of corporation authorized to receive toll; notice; adjournment; person deemed highest bidder; rights of purchaser; transfer; injury to franchise; recovery of penalties; powers, duties, and liabilities; redemption.

Sec. 6038. (1) The officer having execution against any corporation authorized to receive tolls, shall, 30 days, at least, before the day of sale of the franchise, or other corporate personal property, give notice of the time and place of sale, by posting up a notice thereof in any township in which the clerk, treasurer, or any one of the directors of such corporation may dwell, and also by causing an advertisement of the sale, expressing the name of the creditor, the amount of the execution, and the time and place of sale, to be inserted 3 weeks successively in some newspaper published in any county in which either of the aforesaid officers may dwell, if any such there be, and if no newspaper is published in any such county, then in a paper published in an adjoining county.

(2) The officer who may levy any execution, as prescribed in (1), may adjourn the sale from time to time as may be necessary, until the sale is completed.

(3) In the sale of the franchise of any corporation, the person who shall satisfy the execution, with all legal fees and expenses thereon, and shall agree to take such franchise for the shortest period of time, and to receive during that time all such toll as the said corporation would by law be entitled to demand, shall be considered as the highest bidder.

(4) The officer's return on such execution shall transfer to the purchaser all the privileges and immunities which by law belong to such corporation, so far as relates to the right of demanding toll; and the officer shall, immediately after such sale, deliver to the purchaser possession of all the toll houses and gates belonging to such corporation, in whatever county the same may be situated; and the purchaser may thereupon demand and receive all the toll which may accrue during the time limited by the terms of his purchase, in the same manner, and under the same regulations, as such corporation was before authorized to demand and receive the same.

(5) Any person who purchases, under the provisions of this chapter, the franchise of any turnpike or other corporation, and the assignees of such purchaser, may recover any penalties imposed by law for an injury to the franchise, or for any other cause, which such corporation would have been entitled to recover during the time limited in the said purchase of the franchise; and during that time the corporation shall not be entitled to prosecute for such penalties.

(6) The corporation whose franchise shall have been sold as aforesaid shall, in all other respects retain the same powers, and be bound to the discharge of the same duties, and liable to the same penalties and forfeitures, as before such sale.

(7) Such corporation may, at any time, within 3 months after such sale, redeem the franchise, by paying or tendering to the purchaser thereof the sum that he shall have paid therefor, with interest thereon, but without any allowance for the toll which he may have received; and upon such payment or tender, the said franchise, and all the rights and privileges thereof, shall revert and belong to said corporation, as if no such sale had been made.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6041 Execution; fees and charges of sale.

Sec. 6041. The lawful fees and charges of the sale upon any execution in the manner prescribed in this chapter, shall, in all cases, be added to the amount due on the execution, and be considered as a part thereof for all the purposes mentioned in this chapter.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6042 Postponement of sale; public declaration; notice.

Sec. 6042. If, at the time appointed for the sale of any real or personal property on execution, the officer shall deem it expedient and for the interest of all persons concerned, to postpone the sale for want of

purchasers or other sufficient cause, he may postpone the sale from time to time until the sale is completed. He shall make public declaration thereof at the time and place previously appointed for the sale. Notice thereof shall be given in the same manner as provided in section 6052.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6043 Execution; where more than one levy.

Sec. 6043. In case of levies made on more than 1 of the executions provided for in section 6005, sale shall only be made on 1 execution at a time, and under the direction of the plaintiff's attorney. No more sales of the property may be made than is necessary to satisfy the judgment.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6044 Execution; surplus; disposition.

Sec. 6044. If, after any sale made as herein prescribed there remains in the hands of the officer any surplus money after satisfying the writ or writs of execution on which such property was sold, with the interest thereon, the officer shall pay over such surplus to the judgment debtor or his legal representatives on demand.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6045 Execution; refusal of highest bidder to take property; effect.

Sec. 6045. (1) If the highest bidder for any property at any sale on execution refuses to take and pay for it, he is liable for any loss on resale.

(2) In such case the officer shall sell the property again at the same time, or thereafter, giving notice of the second sale.

(3) The officer conducting the sale may sue to enforce the liability under subsection (1), and may recover in the action the expenses of the second sale, and may tax reasonable attorney fees as costs.

(4) The officer shall account for what he receives on the second sale and for any damages recovered under subsection (1) as for so much received on the execution.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6046 Execution; officer not to purchase or be interested.

Sec. 6046. The sheriff or other officer to whom execution is directed, and the deputies of such officers, shall not directly or indirectly, purchase or be interested in the purchase of any property at any sale by virtue of execution.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6047 Payment by debtor of judgment debtor.

Sec. 6047. After issuing execution to collect a judgment, any person indebted to the judgment debtor may pay to the officer having the execution the amount of his debt, or so much thereof as is necessary to satisfy the execution, and the receipt of the officer having such execution is a discharge of the indebtedness of such person to the judgment debtor to the extent of the amount so paid.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6051 Execution against real estate; effect; notice; invalid after 5 years.

Sec. 6051. No levy by execution on real estate is valid:

(1) Against bona fide conveyances made subsequent to such levy, until a notice thereof, containing the names of the parties to the execution, a description of the premises levied upon, and the date of such levy, is filed by the officer making the levy in the office of the register of deeds of the county where the premises are

situated. Such levy is a lien thereon from the time when notice is deposited; and the lien thus obtained is, from the filing of such notice, valid against all prior grantees and mortgagees of whose claims the party interested has neither actual nor constructive notice. The register shall record the same in full upon the records of that office, and make an index to the record, in a manner convenient for public reference, of the names of the parties to the execution as stated in the notice. The officer shall receive for making and recording the notice, the sum of 50 cents, and the register of deeds shall receive the same fee as is allowed by law for recording deeds, which fee the serving officer shall add to the costs to be collected by the execution and in like manner, collect the same. When the execution is fully paid, satisfied or discharged, the clerk of the court who issued execution, shall give to the defendant a certificate, signed by the sheriff and under seal of the court, that the execution is satisfied or discharged; and the certificate may be recorded in the same manner as is notice.

(2) After the expiration of 5 years from making the levy, unless the real estate is sold thereon or within such period.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1965, Act 284, Imd. Eff. July 22, 1965;—Am. 1967, Act 278, Eff. Nov. 2, 1967.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6052 Notice of time and place of sale.

Sec. 6052. Prior to the sale of any real estate taken on execution, notice of the time and place of holding the sale, the notice to describe the real estate with common certainty by setting forth the name or number of the township in which it is located, and the number of the lot, or by other appropriate description of the premises shall be given as follows:

(1) A written or printed notice shall be displayed in 3 public places in the township or city where the real estate is to be sold at least 6 weeks prior to the sale, and if the sale is in a township or city other than that wherein the premises are located, notice shall also be displayed in 3 public places in the township or city in which the premises are located.

(2) A copy of the notice shall be published once each week for the 6 successive weeks prior to the sale in a newspaper printed in the county in which the premises are located, or, if there is no newspaper, in a newspaper printed in an adjoining county.

(3) If the sheriff or other officer adjourns the sale for more than 1 week, he shall give notice in the newspaper in which the original notice was published and shall continue to publish notices weekly throughout the adjournment. Notice of adjournment must also be displayed for a like period at the place where the sale is to be held.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6053 Execution; time, place, adjournment.

Sec. 6053. (1) The sale of real estate by virtue of any execution shall be by public sale, between the hour of 9 o'clock in the morning and 4 o'clock in the afternoon, at the court house or place of holding the circuit court in the county in which the real estate is situated.

(2) The sheriff or other officer making the sale has the power to adjourn the sale for reasonable cause and for a reasonable period.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6054 Execution; irregular sale; taking down or defacement of notice; liability; irregularities not to invalidate.

Sec. 6054. (1) Any officer who sells any real estate, without the previous notice herein directed, or otherwise than in the manner herein prescribed, shall be liable therefor to the party injured, in the sum of \$500.00 damages, in addition to any actual damages which such party may prove on the trial of an action brought for the recovery of the same.

(2) If any person takes down or defaces any notice of a sale of real estate, put up by any officer, previous to the day of sale therein specified, unless upon satisfaction of the execution by virtue of which such notice shall have been given, or upon the consent of the party suing out such execution, and of the defendant therein, such person shall be liable therefor to the party in whose favor such execution was issued, in the sum of \$50.00 damages.

(3) The omission of any officer to give the notice of sale required in this chapter, or the taking down or defacing any such notice when put up, does not affect the validity of any sale made to a purchaser in good faith, without notice of such omission, taking down or defacing.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6055 Execution; certificates, contents; filing; disposition; recording; use as evidence.

Sec. 6055. (1) Upon the sale of any real estate by virtue of an execution, the officer making the same shall make and subscribe as many certificates of such sale as may be necessary, containing:

- (a) A particular description of the premises sold;
- (b) The price bid for each distinct lot or parcel sold;
- (c) The consideration money paid for each lot or parcel; and

(d) The time when such sale shall become absolute, and the purchaser will be entitled to a deed, as hereinafter provided, and shall indorse on each of said certificates the rate of interest borne by the judgment upon which said execution issued.

(2) One of the certificates shall be delivered to each purchaser at the sale and 1 of the certificates shall, within 10 days after the sale, be filed for record by the officer making the sale, in the office of the register of deeds of the county in which the sale is made; and the register of deeds shall cause the certificate to be recorded in a book kept for that purpose.

(3) The original certificate, or the record thereof, or a transcript of the record, duly certified by the register of deeds shall be prima facie evidence of the facts therein set forth, of the regularity of the sale, and of all proceedings in the cause anterior thereto.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6056 Separate exposure of lots, tracts, or parcels for sale; sale of undivided interest.

Sec. 6056. (1) When any real estate offered for sale by virtue of any execution consists of several known lots, tracts, or parcels, such lots, tracts, or parcels shall be separately exposed for sale, and the judgment debtor may direct which piece or parcel shall be first exposed for sale.

(2) No more of the tracts and parcels may be exposed for sale than appear necessary to satisfy the execution, with the costs and expenses of the sale.

(3) When any judgment debtor has an undivided interest with the same parties in several parcels of land, the officer may levy on, advertise, and sell, as a single parcel, the interest of the judgment debtor in any or all of the undivided and unpartitioned tracts or parcels in his bailiwick.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6057 Execution; leasehold interest; rights of purchaser; conveyance; deposit; recording; filing notice of levy; effect; payment of rent.

Sec. 6057. (1) When a leasehold interest is sold on execution, the purchaser is entitled to all the rights and privileges of the defendant in and to the leasehold premises, and may immediately obtain possession thereof from the defendant or person holding under him in the manner provided in the case of an unlawful detainer of lands.

(2) The officer making the sale shall, within 10 days thereafter, execute to the purchaser a conveyance of the leasehold interest, which conveyance, if the unexpired term of such lease then exceeds 3 years, shall be by deed duly executed and acknowledged, as in the case of a conveyance of real estate, which deed shall be deposited with said register of deeds, but shall not be recorded until the expiration of 1 year after the day of sale, and the officer making the sale shall indorse on such deed the date on which it will be entitled to record.

(3) The filing of notice of levy on a leasehold, shall be notice of all the rights acquired by the plaintiff and purchaser at the sale, and the plaintiff in execution or his attorney, shall be thereafter entitled to reasonable notice from the lessor in case the lessor intends to forfeit the lease for any default made by the lessee, or person claiming under him, to the end that the plaintiff shall have a reasonable opportunity to comply with the terms of the lease and save a forfeiture. In case the plaintiff or execution purchaser is compelled to pay any rent due at the date of sale on execution or previous thereto, no redemption may be allowed until the amount so paid is refunded to the plaintiff or execution purchaser, with interest, in addition to the amount for which

such leasehold interests may be sold on execution.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6058 Repealed. 2004, Act 538, Eff. Mar. 30, 2005.

Compiler's note: The repealed section pertained to vendor interest in land contract and disposition of payments.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6059 Execution; homestead; sale in case surplus not paid.

Sec. 6059. In case the surplus, or the amount due on the execution or judgment is not paid according to the provisions of section 6027 of this chapter, it shall be lawful for the officer to advertise and sell the said premises, and out of the proceeds of said sale to pay such debtor the sum of \$3,500.00, which shall be exempt from execution for 1 year thereafter, and apply the balance on said execution. No sale may be made in the case last mentioned, unless a greater sum than \$3,500.00 is bid therefor, in which case the officer may return said execution for want of property, or report the facts to the court in which said judgment was rendered, as the case may require.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1963, 2nd Ex. Sess., Act 40, Imd. Eff. Dec. 27, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6060 Execution; not made on equity of redemption on certain judgment; endorsement on execution; direction to officer.

Sec. 6060. (1) When judgment is recovered for a debt or any part of a debt secured by mortgage of real estate, there can be no sale of the equity of redemption in such estate, by virtue of any execution upon such judgment.

(2) Whenever any execution against the property of the defendant is issued on such a judgment, the plaintiff or his attorney shall indorse on such execution a brief description of the mortgaged premises with a direction not to levy upon said premises or any part thereof and if execution cannot be collected from the other property of the defendant, the officer shall return the same unsatisfied.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6061 Execution; rights of purchaser.

Sec. 6061. When any sale, by virtue of any execution, or attachment, becomes absolute, the purchaser at such sale acquires all the rights and interests that the debtor had in and to the realty sold at the time of the levy by virtue of the execution or attachment; including in either case the right to enforce specific performance of any contract upon performing the conditions thereof as stipulated therein by the debtor.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6062 Redemption of real estate; time; persons entitled to make; effect on sale and certificate; amount stated in recorded affidavit.

Sec. 6062. (1) Not later than 1 year from the date when sale on execution is made, the real estate sold or any distinct lot, tract, or portion that is separately sold or the interest in real estate so sold may be redeemed by payment to the purchaser, to the purchaser's personal representatives or assigns, or to the officer who makes the sale, or to the register of deeds in whose office such certificate is recorded, for the use of the purchaser, of the sum of money bid on the sale of the lot or tract, together with the interest on that sum from the date of sale, computed at the interest rate provided for by the judgment under which the sale was made. The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded under this section that states the exact amount required to redeem the property, including any daily per diem amounts, and the date by which the property must be redeemed shall be stated in the certificate of sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be

authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(2) Redemption may be made by any of the following:

(a) The person against whom the execution is issued and whose right and title are sold in pursuance of the execution.

(b) If the person is dead, by his or her devisee of the premises sold, and if there is no devisee, by the executor or administrator with the approval of the judge of probate, or by the person's heirs.

(c) By any grantee of the person who acquires an absolute title by deed, sale under mortgage, or under an execution, or by any other means, to the premises sold or to any lot, tract, parcel, or portion which is separately sold.

(d) The purchaser of the title and right of redemption of the person against whom the execution issues.

(e) Any heir or devisee of the person, or any grantee of the heir or devisee, who acquires an absolute title to a portion of the estate sold, or to a portion of any lot, tract, or parcel that is separately sold, or the executor or administrator of the person, with the approval of the judge of probate. The person has the same remedy to enforce contribution from those who own the residue of the lot, tract, or parcel as if the sum required to be paid by him or her to effect redemption was collected by a sale of the portion belonging to the grantee.

(f) Each of several persons having undivided shares, as joint tenants or tenants in common, in the premises sold, or in any particular lot or tract sold, by paying to the purchaser or officer a sum that bears the same proportion to the whole sum bid for the premises or for the particular lot or tract as the share proposed to be redeemed bears to the whole number of shares of the premises, lot, or tract, together with the interest on the sum.

(g) A defendant lessee where the unexpired term of the lease exceeds 3 years at the date of sale on execution. On the redemption, the defendant is entitled to repossess, recover, and enjoy the premises from the execution purchaser or the purchaser's assigns.

(3) Upon payment being made by any person so entitled to redeem any real estate so sold, the sale of the premises so redeemed and the certificate of the sale and deed to the extent of the premises or shares so redeemed are void.

(4) The amount stated in any affidavits recorded under this section shall be the amount necessary to satisfy the requirements for redemption under this section.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2004, Act 538, Eff. Mar. 30, 2005.

REVISED JUDICATURE ACT OF 1961 (EXCERPT) **Act 236 of 1961**

600.6063 Acquisition by creditor of interest vested in original purchaser by sale; terms.

Sec. 6063. (1) In case the persons entitled as hereinbefore provided omit to redeem the premises sold, or any part of them, within the year prescribed, then the interest vested in the purchaser by the sale may be acquired within 3 months after the expiration of the year, by the persons, and on the terms hereinafter prescribed.

(2) Any creditor of a person against whom the execution issues having in his own name, or as assignee, representative, trustee, or otherwise, a judgment under which execution has issued and levied upon the real estate sold, or a judgment which is a lien without execution and levy, or any purchaser at a subsequent sale under a junior levy whose title has not become absolute, at any time before the expiration of 15 months from the time of the sale, by paying the sum of money which was paid on the sale of the premises, together with the interest thereon, computed at the rate borne by the judgment under which the sale was made, from the time of the sale, shall acquire all the rights of the original purchaser, subject to be defeated in the manner hereinafter mentioned.

(3) If the execution issued and levied under the creditor's judgment, or the judgment is a lien upon any lot, tract, or parcel, that has been separately sold, the creditor having the same by paying as before provided the sum bid for the lot, tract, or parcel, with interest as above mentioned, shall acquire all the rights of the original purchaser to the lot, tract, or parcel, subject to be defeated as hereinafter provided.

(4) If the execution so levied, or the judgment, is a lien only on a specific portion of a lot, tract, or parcel sold, the creditor may acquire the title of the purchaser to the whole of the lot, tract, or parcel, in the same manner as if the lien extended to the whole.

(5) A creditor having the judgment or execution so levied or any purchaser at a subsequent sale under a junior levy whose title has not become absolute, which is a lien upon any undivided share or interest in any real estate sold under execution, may, within the same time, on the same terms, and in the same manner, acquire the title of the original purchaser to the share or interest by paying such part of the whole purchase money of the real estate as shall be in just proportion to the share or interest.

(6) Any creditor having a mortgage of any lands sold on execution, his representatives, or assigns, where the mortgage was executed subsequent to the levy in pursuance of which the mortgaged premises were sold, may acquire the interest vested in the purchaser at the sale, on the terms provided in subsection (2).

(7) Creditors may acquire the right of the original purchaser in the order of their liens.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6064 Acquisition by creditor of interest vested in original purchaser by sale; purchase by other creditors; acquisition by original purchaser, execution plaintiff, or mortgagee.

Sec. 6064. (1) Whenever any creditor, or purchaser, acquires the title of the original purchaser pursuant to the foregoing provisions, any other creditor who might have acquired the title according to such provisions may become a purchaser thereof from the first creditor who acquired the title, upon the following conditions:

(a) By reimbursing to the first creditor, his personal representatives, or assigns, the sum which may have been paid by him to acquire the title, together with interest thereon, computed as hereinbefore provided, from the time of the payment to the time of the reimbursement;

(b) If the levy under the execution or judgment, by virtue of which the first creditor acquired the title of the original purchaser, be prior to the levy or judgment of the second creditor, then the second creditor shall also pay to the first creditor the amount due on his judgment;

(c) But if the levy under the execution or the judgment of the first creditor, at the time of his acquiring the title of the original purchaser, shall have ceased to be a lien as against the second creditor, it shall not be necessary to pay the amount thereof.

(2) In the same manner any third or other creditor or purchaser at subsequent sale under a junior levy whose title has not become absolute, who might, according to the foregoing provisions, acquire the title of the original purchaser, may become a purchaser thereof, from the second, third, or any other creditor, who may have become such purchaser from any other creditor upon the same terms and conditions specified in (1).

(3) If the original purchaser of any premises sold, is also a creditor of the defendant against whom the execution issued, and as such might acquire the title of any purchaser, according to the preceding provisions, he may avail himself of his judgment in the same manner, and on the same terms herein prescribed, to acquire the title which any creditor may have obtained.

(4) The plaintiff under whose execution any real estate has been sold shall not acquire the title of the original purchaser, or of any creditor, to the premises sold, by virtue of the judgment on which the execution issued; but if he has any other judgment which would entitle him to acquire the title, according to the preceding provisions, he may avail himself of the other judgment, in the same manner, and on the same terms as any other creditor.

(5) Creditors may acquire the interest of the original purchaser acquired by a mortgagee under subsection (6) of section 6063. Unless an execution has been issued on the creditor's judgment and a levy made by virtue thereof on the mortgaged premises, previous to the execution of the mortgage, a creditor acquiring the right of the original purchaser from the mortgagee, his representatives or assigns, shall pay to the mortgagee, his representatives or assigns, the amount due on the mortgage, and be subrogated to the rights of the owner thereof. The creditor shall also reimburse, with interest, the amount paid by the mortgagee, his representatives, or assigns, to acquire the rights of the original purchaser.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6065 Acquisition of interest of original purchaser; evidence of right of creditor to purchase.

Sec. 6065. To entitle any creditor to acquire the title of the original purchaser, or to become a purchaser from any other creditor, he shall present to and leave with such purchaser or creditor, or the officer who made the sale, or with the register of deeds in whose office the certificate of sale is recorded, the following evidence of his right:

(1) A certified copy of the judgment under which he claims the right to purchase;

(2) A true copy of all the assignments of such judgment, which are necessary to establish his claim, verified by his affidavit, or the affidavit of some witness thereto;

(3) An affidavit by such creditor, his agent or attorney, of the true sum due on such judgment, at the time of claiming such right to purchase.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6066 Acquisition of interest of original purchaser; transfer of title; automation fund.

Sec. 6066. (1) The sums required to be paid under this act, to acquire the title of the original purchaser or to become a purchaser from any creditor, may be paid to the purchaser or creditor, to his or her representatives or assigns, or to the officer who made the sale for the use of the purchaser or creditor entitled to the sums paid.

(2) If the purchaser of any equity of redemption, or any creditor having acquired the rights of the purchaser, shall pay the debt due on the mortgage, or the amount of any sale of said premises sold on execution, or any part of the property, the amount paid on the mortgage or execution sale shall be paid, with interest, to the purchaser or creditor, in redeeming the premises, or purchasing the rights of the purchaser or creditor, as provided under this chapter.

(3) Upon payment being made, the title of the original purchaser shall be transferred to the creditor acquiring title under the foregoing provisions and from the creditor to any other creditor becoming a purchaser of the property.

(4) If an automation fund is created under section 2568, any fees or charges collected by the register of deeds under this section or section 3140, 3240, or 6062 shall be credited to the automation fund.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2004, Act 538, Eff. Mar. 30, 2005.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6067 Right to deed; assignments.

Sec. 6067. When the premises mentioned in any officer's certificate of sale of real estate under execution is not redeemed, the legal holder of the certificate is entitled to a deed therefor at any time within 10 years from the expiration of the time of redemption. Before any assignee or his personal representative shall be entitled to a deed, every assignment under which he claims title shall be executed and acknowledged or proved in the same manner that deeds are required to be executed, acknowledged, or approved, to entitle the same to be recorded, and the assignee shall cause them to be recorded in the office of the register of deeds in the county where the real estate sold is situated. When the deed is not taken and recorded in the time limited by this chapter, the certificate of purchase shall become null and void.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6068 Vesting of title; action for injury to realty by grantee in deed; action for waste, injury, or removal of realty or fixtures for benefit of person acquiring rights.

Sec. 6068. (1) The right and title of the person against whom execution was issued, to any real estate sold thereon, shall not be divested by such sale until the expiration of 15 months from the time of such sale.

(2) If such real estate is not redeemed, and a deed is executed in pursuance of a sale, the grantee in such deed shall be deemed vested with the legal estate from the time of such sale for the purpose of maintaining an action for injury to such real estate.

(3) If, at any time after a sale of real estate on execution, and before a deed is executed in pursuance of the sale, the defendant in the execution or any other person, commits waste on the real estate or removes from it any buildings, fences, or other fixtures belonging to the land which would pass to the grantee by a deed of conveyance of the land, the purchaser at the sale or any person who has acquired his rights, may have and maintain, against the person doing the injury and against any other person who has the buildings, fences or fixtures in his possession after such removal, the same actions which the absolute owner of the premises would be entitled to.

(4) After the commencement of any such action as mentioned in subsection (3) of this section, if any other creditor shall acquire the rights of the purchaser at such sale in pursuance of the provisions of this chapter, such action shall not thereby be abated or in any way affected; but the same may be prosecuted in the name of the plaintiff therein to final judgment, for the benefit of the person acquiring such rights after the commencement of the action, if he shall choose to prosecute the same, and if not, such plaintiff may continue the same for his own benefit.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6069 Conveyance of premises; time; effect; executor, administrator, or person equitably entitled; real estate held in trust.

Sec. 6069. (1) After the expiration of 15 months from the time of the sale of any real estate, if any part of the premises sold shall remain unredeemed by the person against whom the execution issued, or by any person entitled to redeem the same within 1 year from the time of such sale, according to the provisions of this chapter, the officer making such sale, or his successor in office, shall complete the same, by executing, in due form of law, a conveyance of the premises so remaining unredeemed, either to the original purchaser or to the creditor who may have acquired the title of such original purchaser, or to the assigns of such purchaser, or to the creditor who may have purchased such title from any other creditor, as the case may be; which conveyance shall be valid and effectual to convey all the right, title and interest which was sold on such execution.

(2) In case the person who would be entitled to a conveyance of any real estate sold by virtue of an execution dies before the execution of the conveyance, the officer shall execute and deliver such conveyance to the executor or administrator of the person so deceased. In any case under this section, where the rights of the person or persons entitled to such real estate, or any interest therein, shall render it necessary, the circuit court of the county in which the officer who made the sale resided, on a hearing of the parties interested, properly brought before it by complaint, may direct the conveyance to be made to the person or persons equitably entitled thereto, in such manner as shall be just; and such conveyance shall have the same effect as provided in subsection (1) of this section.

(3) The real estate so conveyed to any such executor or administrator shall be held in trust for the use of the heirs of such deceased person, subject to the dower of his widow, if there be any; but the same may be sold for the payment of debts and legacies, in the same manner as lands whereof the deceased died seized.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6070 Redemption; discharge of levy, judgment, or mortgage; fee.

Sec. 6070. In all cases of redemption of lands sold on execution, or in all cases of the sale of lands on mortgage foreclosure, whether by advertisement or sale under court order, or in all cases of payment of judgments where the record shows a levy, or any other lien by mortgage levy, or lis pendens, it shall and may be lawful and it is hereby made the duty of the officer making such sale, or the person receiving such money, or his attorney, to discharge such levy, judgment, or mortgage from the record of the register of deeds, in the proper county in which such sale is made. The fee for recording shall be the same as provided by law for the recording of discharges of mortgages.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6071 Contribution among several judgment debtors; order of contribution; enforcement; lien of original judgment; affidavit; recording.

Sec. 6071. (1) When lands and tenements, in the hands of several persons, are liable to satisfy any judgment, and the whole of such judgment, or more than a due proportion thereof, is levied upon the lands of 1 or more of such persons, the persons so aggrieved, or their personal representatives, may compel a just and equal contribution by all the persons whose lands and tenements ought to contribute to the satisfaction of such judgment.

(2) Such lands and tenements are liable to contribution in the following order:

(a) If they were conveyed by the defendant in the execution, they are liable in succession, commencing with the lands last conveyed;

(b) If they were sold under execution against the defendant, they are also liable in succession, commencing with the lands sold under the last and youngest judgment;

(c) If there be lands so liable, which were conveyed by the defendant in the execution and also lands which have been sold under execution against such defendant, they are respectively liable in succession, according to the order hereinbefore prescribed.

(3) If a complaint is filed to enforce such contribution, the person aggrieved shall be entitled to use the original judgment, and by virtue thereof, to pay the amount which ought to be contributed by the lands and tenements subject to such judgment; and for that purpose, such judgment shall remain a lien and charge upon

such lands and tenements, for the term of 5 years after a certified copy thereof shall have been filed and entered in the office of the register of deeds in the county where the lands are situated, to the extent of the sum which ought to be so contributed, notwithstanding such sum or any part thereof, may have been paid by the party seeking such contribution.

(4) But such original judgment does not remain a lien upon any lands, nor are they subject to an execution as herein provided, unless the person aggrieved files for record an affidavit with the register of deeds in whose office a certified copy of such judgment has been recorded, stating the sum paid, and his claim to use such judgment for the reimbursement thereof, or of some portion of the same.

(5) The register of deeds shall record such affidavit and make an entry in the margin of the entry of the certified copy of such judgment, stating the sum so paid, and that such judgment is claimed to be a lien to that amount.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6072 Eviction of purchaser; recovery of purchase price; further execution for benefit of purchaser; validity of original judgment.

Sec. 6072. (1) If the purchaser of any real estate, sold by virtue of an execution, his heirs or assigns, shall be evicted from the possession of such real estate, or if in an action for the recovery thereof, judgment shall be rendered against him or them, in consequence:

(a) Of any irregularity in the proceedings concerning such sale; or

(b) Of the judgment upon which such execution issued being vacated or reversed; such purchaser, his heirs or assigns, may recover of the party for whose benefit such real estate was sold, the amount paid on the purchase thereof, with interest.

(2) The party for whose benefit such real estate was sold, and his personal representatives, upon such recovery being had against him in consequence of any irregularity in the proceedings concerning the sale, may have further execution upon the judgment by virtue of which such sale was made, to levy the amount paid on such sale, with interest.

(3) Such judgment shall be deemed valid and effectual for the purpose specified in subsection (2) of this section, against the defendant therein, his personal representatives, heirs, and devisees, but not against any purchaser in good faith, or any incumbrancer by mortgage, judgment or otherwise, whose title or incumbrance shall have accrued before the levy of such further execution.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6075 Civil arrest; grounds.

Sec. 6075. Except as otherwise provided by law, no person is liable to arrest or imprisonment on any civil process unless:

(1) In a proceeding for contempt of court; or

(2) On an action to recover a fine or penalty; or

(3) After a judgment against such person, the judgment creditor provides satisfactory evidence showing 1 or more of the following circumstances:

(a) The judgment debtor has property which he fraudulently conceals or which he unjustly refuses to apply to the judgment against him, and such judgment belongs to such judgment creditor; or

(b) The judgment debtor is about to remove his property out of the jurisdiction of the court in which suit was brought, with the intent to defraud his creditor; or

(c) The judgment debtor has, or is about to dispose of some or all of his property with intent to defraud his creditor.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6076 Civil arrest; prerequisite.

Sec. 6076. Except in a contempt proceeding, no warrant for civil arrest shall issue unless:

(1) Execution has been made and returned against all the property of the judgment debtor in that county and such property is not sufficient to satisfy such judgment; and

(2) Such warrant issues within 30 days from the return of the execution.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6077 Warrant to arrest judgment debtor.

Sec. 6077. (1) Upon satisfactory proof of any of the grounds for civil arrest named in subsections (2) and (3) or section 6075, any judge of the court which rendered the judgment shall issue a warrant to arrest the judgment debtor.

(2) The warrant shall issue under the hand of the judge in behalf of the people of this state and shall be directed to the sheriff, bailiff, or other officer of the county, district court district, or municipality within which the issuing judge is serving. It shall state the nature of the judgment and command that the judgment debtor be arrested and brought before the judge issuing the warrant, without delay.

(3) The warrant shall be accompanied by a copy of each affidavit, if any, on which the warrant was issued. The copies shall be certified by the judge who issued the warrant, and delivered to the judgment debtor at the time of serving the warrant.

(4) The warrant shall be executed by the arrest of the judgment debtor and his delivery to the judge issuing the warrant, or, some other judge having jurisdiction of the case, and the holding of the judgment debtor until he is committed or discharged according to law.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6078 Hearing; detention of judgment debtor.

Sec. 6078. (1) Upon delivery of the judgment debtor to the judge, the judge shall hold a hearing and, after hearing the proofs, the allegations of the judgment creditor are substantiated and the proof of the grounds for civil arrest as described in subsections (2) and (3) of section 6075 has been given, he shall direct that the judgment debtor be committed to the jail of the county in which the hearing is held, to be there detained until he shall be discharged according to law. The judgment debtor shall be detained accordingly.

(2) A person arrested on civil process and brought before the proper judge for hearing, may controvert any of the facts and circumstances on which the warrant issued, and may, at his option, verify his allegations by his own affidavit. In such case the plaintiff may examine the defendant on oath touching any fact or circumstance material to the inquiry. The answers of the defendant on the examination shall be reduced to writing, and subscribed by him. The judge conducting the inquiry shall also receive such other proofs as the parties may offer, either at the time of the first appearance, or at such other time as the hearing shall be adjourned to. In case of an adjournment, the judge may take a recognizance with surety from the defendant for his appearance at the adjourned meeting, and conditioned that the defendant will not meanwhile secrete, destroy, dispose of, or in any manner make away with, or put out of his possession, any of his property not exempt from sale on execution. In case the defendant refuses to enter into the recognizance, he shall be committed to the county jail, there to remain until such time as the hearing is completed.

(3) The judge conducting the inquiry has the same authority to issue subpoenas for witnesses, to enforce obedience to the subpoenas, and to punish witnesses refusing to testify as is conferred by law upon such judges in cases of other proceedings before them. The defendant may demand a jury of 6 jurors to try the issue joined in the matters charged or alleged against him in the affidavit or affidavits exhibited to or before the judge conducting the inquiry. The jury shall be selected and summoned in the same manner, as near as may be, as in the trial of criminal cases. The judge has the same power in relation to the selection, summoning, and swearing the jury and conducting the jury trial, as near as may be, as in the trial of criminal cases.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6079 Civil arrest; discharge.

Sec. 6079. The judgment debtor may avoid commitment or be discharged from commitment by:

- (1) Paying the amount due on the judgment with interest and costs; or
- (2) Making a general assignment of all his property for the benefit of his creditors; or
- (3) Obtaining a judgment in his favor on appeal of the judgment creditor's judgment; or

(4) Entering into a bond to the plaintiff in an amount of twice the sum of the judgment, interest and costs, giving such surety as shall be approved by the committing officer, and conditioned that within 30 days of the hearing the judgment debtor will file a petition for adjudication in bankruptcy, under the federal bankruptcy law, and diligently prosecute the same until he obtains a discharge, and that he will not, before obtaining such discharge in bankruptcy, in any way dispose of any money, property, or rights in action, or interest in any public or corporate stock, or evidence of debt, or anything valuable whatever, which he possessed at the time of such arrest, not exempt from execution; or

(5) Entering into a bond to the plaintiff in an amount of twice the sum of the judgment, interest and costs, giving such surety as shall be approved by the committing officer, and conditioned that within 6 months of the hearing, the judgment debtor shall pay the judgment, interest and costs; or

(6) Posting bail as prescribed in section 6080; or

(7) The failure of the judgment creditor to pay the judgment debtor's board in advance as required by section 6082; or

(8) The expiration of 90 days if the arrest was to recover a fine or penalty.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6080 Civil arrest; bail.

Sec. 6080. (1) Any person arrested on civil process is entitled to bail during the time within which he may appeal the proceeding on which the arrest was made, or until a final determination of his appeal has been made.

(2) In a contempt proceeding, the amount of bail shall be set by the judge or officer presiding over such proceeding.

(3) In all other cases, the amount of bail shall be twice the amount of the judgment, fine or penalty on which the arrest was made.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6081 Civil arrest; bail; bond; forfeiture; release.

Sec. 6081. (1) If, within the time prescribed in subsection (1) of section 6080, the judgment debtor is not discharged, and fails to surrender himself for commitment, his bail is forfeited and the judgment creditor shall have satisfaction out of such bail.

(2) If, within the time prescribed in subsection (5) of section 6079, the judgment debtor is not discharged and fails to pay the judgment, interest and costs, his bond is forfeited and the judgment creditor shall have satisfaction out of such bond.

(3) Bail is released by the release of the judgment or upon the surrender of the judgment debtor for commitment within the prescribed period.

(4) Bond is released by the release of a judgment or upon the payment of the judgment, interest and costs, within the prescribed period.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6082 Imprisonment; segregation from criminals; payment of board.

Sec. 6082. (1) Those persons committed on civil process shall be segregated from those committed on criminal process.

(2) The board of any person committed under civil process, except for contempt or for collection of fines and penalties, shall be paid in advance by the judgment creditor to the sheriff or keeper of the jail. On failure to pay such board, the judgment debtor shall be released and shall no longer be liable to civil arrest on the judgment under which he was committed.

(3) In the case of collection of fines or penalties, the board of the prisoner shall be added to the amount of such fines or penalties and collected as part of the original judgment.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6083 Imprisonment; sheriff's liability for escape.

Sec. 6083. (1) All prisoners committed on civil process shall be actually confined in jail until discharged according to law; and if any sheriff or keeper of jail permits any prisoner to leave confinement before such time, such sheriff or keeper is liable to the judgment creditor for the damages sustained and shall be guilty of a misdemeanor.

(2) But if the prisoner is returned to custody before commencement of an action based on the liability herein described, then such liability shall be null and void.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6084 Imprisonment; discharge; effect.

Sec. 6084. Discharge of the judgment debtor from imprisonment only bars further civil arrest of the judgment debtor on the same judgment, and does not preclude the judgment creditor from any other action on the same judgment.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6085 Removal or concealment of property to avoid execution; misdemeanor.

Sec. 6085. Any person who removes any of his property out of any county, with intent to prevent the same from being levied upon by an execution or who secretes, assigns, conveys, or otherwise disposes of any of his property, with intent to defraud any creditor, or to prevent such property from being made liable for the payment of his debts and any person who receives such property with such intent, shall, on conviction thereof, be deemed guilty of a misdemeanor.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6086 Transfer of property by judgment debtor after commitment; validity.

Sec. 6086. Transfers by the judgment debtor of any property, except property exempt from execution, made after the judgment debtor's commitment, or while he is free on bail, are void except as to bona fide purchasers from the transferee for value without notice.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6091 Sale of real estate pursuant to judgment; notice; procedure; fees.

Sec. 6091. Any person duly authorized by an order of the court to sell real estate in pursuance of any judgment, except as otherwise provided by order of the court or by a rule of court, shall give notice of, and conduct the sale as in the case of sale of real estate on execution. The person making the sale shall have the same power and authority and be subject to the same liability as in the case of sale of realty on execution. All lawful fees for advertising and conducting the sale shall be added to the amount due on the judgment and collected therewith.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6092 Judgment against absent, concealed, or nonresident defendant; sequestration of realty or personalty; delivery of possession of property; satisfaction out of estate and effects sequestered.

Sec. 6092. (1) In the case of a judgment against an absent, concealed, or nonresident defendant, process may issue to compel the performance of such judgment either by sequestration of the real and personal estate of the defendant, or such part thereof as is deemed sufficient; or where any specific estate or effects are demanded by the complaint by causing possession of the property so demanded to be delivered to the plaintiff.

(2) Such possession shall not be delivered until the plaintiff gives security, in such sum as the court directs, to abide the order of the court touching the restitution of the estate or effects delivered, in case the defendant

appears and is admitted to defend the suit.

(3) Upon like security being given, the court, when a sequestration has issued, may order the judgment to be satisfied out of the estate and effects sequestered; but if such security has not been given, the estate and effects sequestered shall remain under the direction of the court, to abide its further orders.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6093 Recovery of judgment against township, village, city, or county.

Sec. 6093. (1) Whenever judgment is recovered against any township, village, or city, or against the trustees or common council, or officers thereof, in any action prosecuted by or against them in their name of office, the clerk of the court shall, on the application of the party in whose favor judgment is rendered, his attorney, executor, administrator, or assigns, make and deliver to the party so applying a certified transcript of the judgment, showing the amount and date thereof, with the rate of interest thereon, and of the costs as taxed under the seal of the court, if in a court having a seal. The party obtaining the certified transcript may file it with the supervisor of the township, if the judgment is against the township, or with the assessing officer or officers of the city or village, if the judgment is against a city or village. The supervisor or assessing officer receiving the certified transcript or transcripts of judgment shall proceed to assess the amount thereof with the costs and interests from the date of rendition of judgment to the time when the warrant for the collection thereof will expire upon the taxable property of the township, city, or village upon the then next tax roll of such township, city, or village, without any other or further certificate than the certified transcript as a part of the township, city, or village tax, adding the total amount of the judgment to the other township, city, or village taxes and assessing it in the same column with the general township, city, or village tax.

The supervisor or assessing officer shall set forth in the warrant attached to the tax roll each judgment separately, stating the amount thereof and to whom payable, and it shall be collected and returned in the same manner as other taxes. The supervisor or assessing officer, at the time when he delivers the tax roll to the treasurer or collecting officer of any township, city, or village, shall deliver to the township clerk or to the clerk or recording officer of the city or village, a statement in writing under his hand, setting forth in detail and separately the judgment stating the amount with costs and interest as herein provided, and to whom payable. The treasurer or collecting officer of the township, city, or village, shall collect and pay the judgment to the owner thereof or his attorney, on or before the date when the tax roll and warrant shall be returnable. In case any supervisor, treasurer, or other assessing or collecting officer neglects or refuses to comply with any of the provisions of this section he shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than \$1,000.00 and costs of prosecution, or imprisonment in the county jail for a period not exceeding 3 months, or by both fine and imprisonment in the discretion of the court. Nothing herein contained shall be construed to exclude other remedies given by law for the enforcement of the judgment.

(2) In any case where a judgment is recovered against a village which, by reason of holding no municipal elections, or for any other reason has no available assessing officer within the jurisdiction of the court wherein the judgment is rendered, the owner of the judgment or any person knowing the facts, acting on behalf of the owner, may make an affidavit showing that the village against which a judgment is pending and unsatisfied, has no available assessing officer within the jurisdiction, and file it with the clerk of the court wherein the judgment is written. The officer who makes the certified transcript shall attach thereto a copy of the affidavit, the correctness of which copy shall also be certified to in the certificate. Any party receiving the certified transcript of judgment and affidavit may file it with the supervisor of the township in which the village, having no assessing officer is located. The supervisor shall assess the amount of the judgment with costs and interest, upon the taxable property of the village, which is without an assessing officer, and thereafter the same steps and proceedings shall be had in the premises as though it were a judgment against the township within which the village is located, except that it shall be assessed against the property within the corporate limits of the village only.

(3) When judgment is recovered against any county or the board of supervisors or any county officer in an action prosecuted by or against him in his name of office, the judgment unless reversed shall be levied and collected as other county charges, and when collected shall be paid by the county treasurer to the person to whom the judgment has been adjudged upon the delivery of a proper voucher therefor.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6094 Recovery of judgment against school district.

Sec. 6094. (1) Whenever any final judgment is obtained against the school district, if it is not removed to any other court, the treasurer of the district shall certify to the supervisor of the township and to the director of the district the date and amount of the judgment, with the name of the person in whose favor it was rendered, and if the judgment is removed to another court, the treasurer shall certify it as aforesaid immediately after the final determination thereof against the district.

(2) If the treasurer fails to certify the judgment, the party obtaining it, his executors, administrators, or assigns, may file with the supervisor the certificate of the clerk of the court rendering the judgment, showing the facts which should have been certified by the treasurer.

(3) If the district against which a judgment is rendered is situated in part in 2 or more townships, a certificate thereof shall be delivered as aforesaid to the supervisor of each township in which the district is in part situated.

(4) The supervisor or supervisors receiving either of the certificates of a judgment as aforesaid shall proceed to assess the amount thereof, with interest from the date of the judgment to the time when the warrant for the collection thereof will expire, upon the taxable property of the district, placing it on the next township assessment roll in the column for school taxes; and the same proceedings shall be had, and it shall be collected and returned in the same manner as other district taxes.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6095 Collection of judgment; against state institution.

Sec. 6095. When any judgment or decree is obtained against any corporate body, or unincorporated board, now or hereafter having charge or control of any state institution, the amount thereof shall be included and collected in the state tax and paid to the person entitled thereto.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6096 Repealed. 1984, Act 393, Imd. Eff. Dec. 28, 1984.

Compiler's note: The repealed section pertained to township judgment bonds.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6097 Judgment against municipality; issuance of certificates of indebtedness or bonds to pay judgment; amount; interest; sale; duration; bonds not subject to § 117.5; "municipality" defined.

Sec. 6097. (1) If a judgment of a court or administrative agency is rendered against any municipality, the legislative body of that municipality, unless otherwise provided, may issue certificates of indebtedness or bonds of that municipality for the purpose of raising money to pay the judgment, in an amount not exceeding the sum of the judgment, the costs and interest on the judgment, and all cost in connection with issuing the certificates of indebtedness or bonds. The certificates of indebtedness or bonds shall be sold and issued in accordance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that they may be issued for a period of up to 15 years.

(2) The authorization, issuance, and selling of the bonds are not subject to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5.

(3) As used in this section, "municipality" means a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district established under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, or another governmental authority or agency in this state which has the power to levy ad valorem property taxes.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 393, Imd. Eff. Dec. 28, 1984;—Am. 2002, Act 224, Imd. Eff. Apr. 29, 2002.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6098 Review of verdict in action alleging medical malpractice or personal injury action; duties of judge; reinstatement of original verdict; affirming orders and judgments granting additur or remittitur.

Sec. 6098. (1) A judge presiding over an action alleging medical malpractice shall review each verdict to determine if the limitation on noneconomic damages provided for in section 1483 applies. If the limitation applies, the court shall set aside any amount of noneconomic damages in excess of the amount specified in section 1483.

(2) A judge presiding over a personal injury action shall review each verdict returned by the jury and shall do 1 of the following:

(a) Concur with the award.

(b) Upon motion by any party, within 21 days of entry of the judgment of the court, grant a new trial to all or some of the parties, on all or some issues, whenever their substantial rights are materially affected, for any of the following reasons:

(i) Irregularity in the proceedings of the court, jury, or prevailing party.

(ii) An order of the court or abuse of discretion which denied the moving party a fair trial.

(iii) Misconduct of the jury or the prevailing party.

(iv) Excessive or inadequate damages appearing to have been influenced by passion or prejudice.

(v) A verdict clearly or grossly inadequate or excessive.

(vi) A verdict or decision against the great weight of the evidence or contrary to law.

(vii) Material evidence, newly discovered, which could not with reasonable diligence have been discovered and produced at trial.

(viii) Error of law occurring in the proceedings or mistake of fact by the court.

(ix) Other grounds as may be provided for by court rule.

(c) Within 21 days after entry of a judgment, the court on its own initiative may order a new trial for any of the reasons set forth in subdivision (b). The order shall specify the grounds on which the order is based.

(d) If the court finds that the only error in the trial is the inadequacy or excessiveness of the verdict, the court may grant a new trial unless, within 14 days, the nonmoving party consents in writing to the entry of judgment in an amount found by the court to be the lowest or highest amount the evidence will support.

(3) If the moving party appeals, the written consent entered under subsection (2)(d) in no way prejudices the nonmoving party's argument on appeal that the original verdict was correct. If the nonmoving party prevails on appeal, the original verdict may be reinstated by the appellate court.

(4) All orders and judgments of the circuit court granting additur or remittitur shall be affirmed on appeal unless the trial judge committed an abuse of discretion.

History: Add. 1986, Act 178, Eff. Oct. 1, 1986.

Compiler's note: Section 3 of Act 178 of 1986 provides:

"(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

"(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

"(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

"(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

"(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

"(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988."

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6101 Proceedings supplementary to judgment.

Sec. 6101. A proceeding under this chapter may be maintained until the judgment is satisfied, vacated, or barred by the statute of limitations.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6104 Powers of judge after rendition of judgment for money.

Sec. 6104. After judgment for money has been rendered in an action in any court of this state, the judge may, on motion in that action or in a subsequent proceeding:

(1) Compel a discovery of any property or things in action belonging to a judgment debtor, and of any property, money, or things in action due to him, or held in trust for him;

(2) Prevent the transfer of any property, money, or things in action, or the payment or delivery thereof to the judgment debtor;

(3) Order the satisfaction of the judgment out of property, money, or other things in action, liquidated or unliquidated, not exempt from execution;

(4) Appoint a receiver of any property the judgment debtor has or may thereafter acquire; and

(5) Make any order as within his discretion seems appropriate in regard to carrying out the full intent and purpose of these provisions to subject any nonexempt assets of any judgment debtor to the satisfaction of any judgment against the judgment debtor.

The court may permit the proceedings under this chapter to be taken although execution may not issue and other proceedings may not be taken for the enforcement of the judgment. It is not necessary that execution be returned unsatisfied before proceedings under this chapter are commenced.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6107 Installment payments from income; reasonable value of services to relative; earning ability; modification of order; moneys awarded in matrimonial action; statute of limitations.

Sec. 6107. (1) Whether or not the judgment creditor has resorted to any remedy available under the garnishment or execution statutes, the court may order the judgment debtor to pay to the judgment creditor or apply on the judgment, in installments, such portion of his income, however or whenever earned or acquired, as the court may deem proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the judgment debtor under any legal process.

(2) Where the judgment debtor claims or is proved to be rendering services to or employed by a relative or other person or by a corporation owned or controlled by a relative or other person, without salary or compensation, or at a salary or compensation so inadequate as to satisfy the court that such salary or compensation is merely colorable and designed to defraud or impede the creditors of such debtor, the court may direct such debtor to make payments on account of the judgment, in installments, based upon a reasonable value of the services rendered by such judgment debtor under his said employment or upon said debtor's then earning ability.

(3) The court may, from time to time, modify an order made under this section upon application of either party upon notice to the other.

(4) An order under this section, where the income sought to be reached consists in whole or in part of moneys awarded in a matrimonial action for the support of the judgment debtor by a court of this state, may be made only by such court. To enable the judgment creditor to apply for such an order, a proceeding under this chapter instituted in another court may be transferred to such court on order of such other court, without prejudice to the proceedings theretofore taken therein.

(5) The statute of limitations shall not run against a judgment during the time it is payable in installments as provided in this section.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6110 Subpoena requiring appearance of judgment debtor or person having money or property of judgment debtor; affidavit; examination; adjournment; immunity.

Sec. 6110. (1) Upon an affidavit, showing to the satisfaction of the judge that any person has money or property of the judgment debtor, or is indebted to him, the judge may issue a subpoena requiring the judgment debtor or the person or both to appear at a specified time and place, and be examined on oath, and to produce for examination any books, papers, or records in his or its possession or control which have or may contain information concerning the property or income of the debtor.

(2) A corporation shall attend by and answer under the oath of an officer thereof, and the judge may, in his discretion, specify the officer. Either party may be examined as a witness in his own behalf, and may produce and examine other witnesses as upon the trial of an action. The judge may adjourn any proceedings under this chapter from time to time as he thinks proper.

(3) A party or witness examined under these provisions may not be excused from answering a question on the ground that his answer will tend to show him guilty of the commission of a fraud, or prove that he has been a party or privy to, or knowing of a conveyance, assignment, transfer, or other disposition of property for

any purpose, or that he or another person claims to have title as against the judgment debtor or to hold property derived from or through the judgment debtor, or to be discharged from the payment of a debt which was due to the judgment debtor or to a person in his behalf. But an answer cannot be used as evidence against the person so answering in any criminal proceeding or action, except for perjury in making the answer.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6113 Special proceedings; hearings; attendance, mileage, and expenses of judgment debtor.

Sec. 6113. (1) Proceedings under this chapter are special proceedings, and shall be heard by the judge without a jury, except as provided in subsection (3) of section 6128. Hearings may be held in chambers.

(2) A judgment debtor may be required to attend outside the county where he resides but the court may make such order as to mileage and expenses as is just.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6116 Transfer of debtor's property; duration of restraint.

Sec. 6116. (1) An order for examination of a judgment debtor may contain a provision restraining the judgment debtor from making or suffering any transfer or other disposition of, or interference with any of his property then held or thereafter acquired by or becoming due to him not exempt by law from application to the satisfaction of the judgment, until further direction in the premises, and such other provisions as the court may deem proper.

(2) Unless previously vacated by order of the court or by stipulation of the parties in writing, a restraining provision as herein provided shall remain in full force and effect for a period of 2 years from the date thereof, at which time it shall be deemed vacated for all purposes unless extended by order of the court for good cause shown.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6119 Transfer of property by third party; prohibition; violation; contempt; liability; transfer of property apparently belonging to others; duration of restraint.

Sec. 6119. (1) When a third party having in his or its possession property or moneys belonging to the judgment debtor or who is indebted to the judgment debtor is subpoenaed or ordered to attend and be examined as authorized in this chapter, such third party is hereby forbidden to make or suffer any transfer or other disposition of, or to interfere with, any property belonging to the judgment debtor or to which he may be entitled or which may thereafter be acquired by or become due to said judgment debtor, or to pay over or otherwise dispose of any moneys due or to become due to such judgment debtor, not exempt by law from application to the satisfaction of the judgment, until the further order of the court except that such third party is not obliged to withhold the payment of any moneys beyond double the amount claimed in such subpoena by the judgment creditor. To effect such restraining provision, a copy of this section must be indorsed on or attached to the copy of the subpoena or order served on the third party.

(2) Any person served with said subpoena or order, who violates the provisions of such restraining provision, is subject to punishment by the court for contempt, and is liable to the judgment creditor for any damages sustained.

(3) The restraining effect of a subpoena served upon a third party shall not, however, apply to any property, money or indebtedness which appears from the books or records of the third party to belong to or to be due to a person or corporation other than the judgment debtor, unless the third party has knowledge or reason to believe that such property, money or indebtedness belongs to or is due to the judgment debtor; but the court may by order at any stage of the proceeding grant a restraining provision applicable to any such property, money or indebtedness, which is specified in the order, where it is shown to the court's satisfaction by affidavit or other written proof that there is reason to believe that such property, money or indebtedness belongs to or is due to the judgment debtor.

(4) Unless previously vacated by order of the court or unless released in writing filed in the cause by the judgment creditor, a restraining provision as herein provided shall remain in full force and effect for a period of 2 years from the date of the service of the subpoena, at which time it is deemed vacated for all purposes

unless extended by order of the court for good cause shown.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6122 Transfer of property by third party; rights of judgment creditor; negotiable instruments.

Sec. 6122. (1) Every transfer by the judgment debtor by assignment or otherwise of any property held by, or debt due from a third party upon whom there has previously been served an order or subpoena containing an injunction as provided in section 6119, is subject to such rights and remedies as the judgment creditor would have had if such transfer had not been made, unless the transferee is a bona fide purchaser for value and without notice, in which case the judgment creditor shall have such rights and remedies in the property only if the value paid is returned to the bona fide purchaser.

(2) The foregoing provisions of (1) do not apply to:

(a) A transfer of a debt evidenced by a negotiable instrument which has been transferred to a transferee in good faith and for value, or

(b) Transfer of property which has been delivered, or for which a negotiable warehouse receipt, negotiable bill of lading or other negotiable document of title has been delivered, to a transferee in good faith and for value.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6125 Injunction; vacation; bond.

Sec. 6125. Any person restrained by any injunction under this chapter from transferring or disposing of any property or paying any moneys or indebtedness, may move to vacate the injunction. The court shall vacate the injunction if the person gives bond with sureties approved by the court, the bond containing conditions specified by the court including:

(1) An undertaking to pay the judgment and costs of the proceeding if the judgment creditor or receiver is successful; or

(2) An undertaking in the sum equal to the value of the property or moneys to be released from restraint, to be paid to the judgment creditor or receiver if they are successful.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6128 Trying title to debt or property; third party claimant; jury.

Sec. 6128. (1) Where it appears to the court that:

(a) The judgment debtor may have an interest in or title to any real property, and such interest or title is disclaimed by the judgment debtor or disputed by another person;

(b) The judgment debtor may own or have a right of possession to any personal property, and such ownership or right of possession is substantially disputed by another person; or

(c) A third party is indebted to the judgment debtor, and the obligation of the third party to pay the judgment debtor is disputed; the court may, if the person or persons claiming adversely is a party to the proceeding, adjudicate the respective interests of the parties in such debt or real or personal property, and may determine such property to be wholly or in part the property of the judgment debtor, or that the debt is owed the judgment debtor.

(2) If the person claiming adversely to the judgment debtor is not a party to the proceeding, the court shall by show cause order or otherwise cause such person to be brought in and made a party thereto, and shall set such proceeding for early hearing.

(3) Any person so made a party, or any party to the original proceeding, may have such issue determined by a jury upon demand therefor and payment of a jury fee as in other civil actions if such person would be entitled to a jury trial if the matter was adjudicated in a separate action.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6131 Prima facie case; burden of proof; proceedings before sale on execution; transfer of property within 1 year prior to commencement of action.

Sec. 6131. (1) The complainant shall make a prima facie case by introducing in evidence the judgment against the principal defendant and proof of the conveyance complained of. The burden of proof is then on the judgment debtor, the person claiming through him, or the person whom it is claimed holds the property in trust for him, to show that the transaction is in all respects bona fide or that the person is not holding as trustee of the judgment debtor.

(2) In case of a levy on the equitable interest of a judgment debtor, the judgment creditor, may, before the sale on execution, institute proceedings under this chapter to ascertain and determine the rights and equities of the judgment debtor in the property levied on. Where no such proceedings are instituted prior to the sale on execution, they must be instituted within 1 year thereafter.

(3) Where it appears that the judgment debtor at a time within 1 year prior to the date of the commencement of the action in which the judgment is entered has had title to or has paid the purchase price of any real or personal property to which at the time of the examination his wife, or a relative or a person on confidential terms with the judgment debtor may claim title or right of possession, the burden of proof shall be upon the judgment debtor, or person claiming title or right of possession, to establish that the transfer or gift from him was not made for the purpose of delaying, hindering, and defrauding creditors.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1973, Act 96, Imd. Eff. Aug. 8, 1973.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6134 Fraudulent transfers.

Sec. 6134. For the purposes of this chapter a person is deemed to be indebted to the judgment debtor, although any debt in question has been assigned, charged or encumbered by the judgment debtor, if the assignment, charge or encumbrance is fraudulent as against creditors or is otherwise voidable.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6137 Payment by debtor of judgment debtor.

Sec. 6137. Any person indebted to a judgment debtor may pay to the clerk of the court the amount of his debt, or so much thereof as is necessary to satisfy the judgment and costs. The receipt of the clerk is a discharge of the indebtedness of such person to the judgment debtor to the extent of the amount so paid. The clerk shall apply such amount to the satisfaction of the judgment and costs, and any surplus shall be paid to the judgment debtor.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6140 Orders affecting alienability of land; recording.

Sec. 6140. Any order under this chapter which affects or may limit the alienability of real property, or a certified copy thereof, may be filed for record in the office of the register of deeds of the county in which such real property is situated together with a description of the real property involved. The register of deeds shall record such notice as if filed under Chapter 27 and it shall have the same effect.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6143 Scope of chapter.

Sec. 6143. This chapter is in addition to and does not affect enforcement of judgments or proceedings supplementary thereto, by any other methods now or hereafter provided by law.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6201 Order permitting payment of judgment in installments; showing.

Sec. 6201. (1) The judge of any court having civil jurisdiction at the time of the rendition of a judgment, upon proper showing made by the defendant with both parties or their attorneys present in court, may make a

written order permitting the defendant to pay the judgment in installments, at such times and in such amounts as in the opinion of the judge, the defendant is able to pay.

(2) Any judge may make a written order permitting the defendant to pay any judgment previously rendered in or transcribed to his court in installments, upon compliance by the defendant with the provisions of this chapter and the rules of court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6205 Payment of judgment in installments; notice; petition; affidavit; garnishment.

Sec. 6205. (1) At any time after the rendition of a judgment or the filing of a transcript of a judgment the defendant may file a petition with the clerk of the court in which the judgment was rendered, or transcript filed, requesting the clerk to issue a notice, directed to the plaintiff personally, or if plaintiff's action was filed by an agent or attorney or acted upon by an agent or attorney either at the time of the rendition of the judgment, or after, as shown by the court files in the cause, the notice may be directed to the plaintiff with the name of the agent or attorney designated, and served on the agent or attorney of record and have the same force and effect as a notice served on the plaintiff personally.

(2) The notice shall notify the plaintiff that on a certain day and time to be therein specified, the defendant will move the court for an order permitting the payment of the judgment in installments.

(3) The petition of the defendant shall be supported by the affidavit of the moving party setting forth his inability to pay the judgment with funds other than those earned by him as wages, and setting forth the name and address of his employer, the amount of the wages and the date of payment thereof.

(4) A garnishment shall not issue on the judgment after the filing of the petition herein mentioned excepting upon the written order of the judge or justice.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6211 Judgment; payment by installments; service of notice; hearing; garnishment.

Sec. 6211. (1) Such notice shall be served at least 4 days before the date set for hearing the motion, by placing the same in the United States mail in an envelope properly stamped and addressed to the plaintiff, his agent or attorney.

(2) Unless the motion is heard and ruled upon within 14 days from the time of filing the petition, subsection (4) of section 6205 shall not apply unless otherwise ordered by the court.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6215 Cross-examination; order to pay; stay of garnishment.

Sec. 6215. (1) On the date set for the hearing, the plaintiff may cross-examine the moving party as to the facts set forth in the motion, and the judge may then enter an order requiring the defendant to pay to the clerk of the court or to the plaintiff direct, a certain sum of money weekly, biweekly, or monthly, to apply on the judgment.

(2) The order shall stay the issuance of any writ of garnishment for work and labor during the period that the defendant complies with the order. The order shall not stay garnishment if the defendant fails to comply with its terms.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6221 Altering amounts and times of installment payments.

Sec. 6221. The judge may, on motion of either party, following due notice to the other, alter the amounts and times of payment of the installments from time to time when he may deem it advisable and fair.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.6225 Force and effect of agreement for payment of judgment in installments.

Sec. 6225. A written agreement for the payment of a judgment in installments, signed by the parties, their attorneys, or authorized agents of record in the judgment file in their behalf, and filed with the clerk of the court, shall have the same force and effect as an order made by the judge.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6231 Garnishment without order prohibited and void; notice of order.

Sec. 6231. The garnishment of any money due or to become due for the personal work and labor of the defendant upon a judgment made payable in installments either by the court order or agreement of parties is prohibited, excepting upon the written order of the judge. Any writ of garnishment issued without the order is void. The order may be made following due notice to the defendant if installments are due.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6235 Judgment; payment by installments; statute of limitations.

Sec. 6235. The statute of limitations shall not run against a judgment during the time it is payable in installments as provided in this chapter.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6241 Execution of powers and duties.

Sec. 6241. In any court having more than 1 judge, all powers granted and duties imposed by this chapter may be executed in accordance with the rules of said court.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 297, Eff. Apr. 1, 1975.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6245 Judgment; payment by installments; collection of judgment; other methods.

Sec. 6245. Nothing contained in this chapter shall be construed to prohibit and shall not prohibit a plaintiff from taking any legal means for the collection of a judgment excepting the garnishment of money due or to become due the defendant for the personal work and labor of the said defendant.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6251 Judgment; payment by installments; record; affidavit for transcript; contents.

Sec. 6251. Every proceeding instituted by a judgment debtor pursuant to this chapter shall appear upon and as part of the record of the judgment. No transcript of such judgment shall issue out of the court pending the hearing upon any motion instituted under this chapter. Every affidavit for a transcript of any judgment rendered by the court shall contain an averment by the affiant either that a stay order has issued and is in effect, or, that no proceeding under this chapter has been instituted upon the judgment, or, if a proceeding has been instituted, that a stay order was finally denied after a hearing pursuant to the provisions of this chapter, or, if a stay order has issued, that the order was vacated under the provisions of this chapter.

History: 1961, Act 236, Eff. Jan. 1, 1963.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.8301 Exclusive jurisdiction in civil actions; jurisdiction over civil infraction actions.

Sec. 8301. (1) The district court has exclusive jurisdiction in civil actions when the amount in controversy does not exceed \$25,000.00.

(2) The district court has jurisdiction over civil infraction actions.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1971, Act 148, Eff. Jan. 1, 1972;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1996, Act 388, Eff. Jan. 1, 1998.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.8306 Power with respect to attachment and garnishment; conditions upon which relief available; compliance with rules; garnishment proceedings as auxiliary actions; fees.

Sec. 8306. (1) Subject to the limitations of jurisdictional amount and venue otherwise applicable in the particular court, the district court and municipal courts shall have the same power with respect to attachment and garnishment as the circuit court.

(2) The conditions upon which relief is available under this section shall be the same as are applicable to actions in the circuit court under section 4001 with respect to attachment and under sections 4011 and 4012 with respect to garnishment.

(3) The district court and municipal courts may exercise the jurisdiction granted by this section only if action is taken in accordance with rules adopted by the supreme court to protect the parties.

(4) In the district court, except where service of a writ of garnishment is a prerequisite to the exercise of jurisdiction under the conditions prescribed in section 4011(3), all garnishment proceedings shall be treated as auxiliary actions to the principal action. The party commencing such a proceeding in the district court shall not be required to pay an additional filing fee or jury fee with respect to that garnishment proceeding. The clerk shall charge and collect a \$15.00 service fee for each writ of garnishment, attachment, or execution or for each judgment debtor discovery subpoena issued.

(5) Fees shall not be required with respect to attachment and garnishment except as otherwise provided by law.

History: Add. 1971, Act 41, Eff. Mar. 30, 1972;—Am. 1974, Act 371, Eff. Apr. 1, 1975;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1993, Act 189, Eff. Oct. 8, 1993.

Compiler's note: Section 3 of Act 371 of 1974 provides: "The provisions of this act shall apply to all actions pending or commenced on or after the effective date of this act."

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.8312 Venue.

Sec. 8312. (1) In a district of the first class, venue in criminal actions for violations of state law and all city, village, or township ordinances shall be in the county where the violation took place.

(2) In a district of the second class, venue in criminal actions for violations of state law and all city, village, or township ordinances shall be in the district where the violation took place.

(3) In a district of the third class, venue in criminal actions for violations of state law and all city, village, or township ordinances shall be in the political subdivision where the violation took place, except that when the violation is alleged to have taken place within a political subdivision where the court is not required to sit, the action may be tried in any political subdivision within the district where the court is required to sit.

(4) With regard to state criminal violations cognizable by the district court, the following special provisions shall apply:

(a) If an offense is committed on the boundary of 2 or more counties, districts, or political subdivisions or within 1 mile thereof, venue is proper in any of the counties, districts, or political subdivisions concerned.

(b) If an offense is committed in or upon any railroad train, automobile, aircraft, vessel, or other conveyance in transit, and it cannot readily be determined in which county, district, or political subdivision the offense was committed, venue is proper in any county, district, or political subdivision through or over which the conveyance passed in the course of its journey.

(5) Venue in civil actions, other than civil infraction actions, shall be governed by sections 1601 to 1659 except that for purposes of this subsection all references to "county" in sections 1601 to 1659 shall mean "district" with respect to districts of the second and third class.

(6) Venue in civil infraction actions shall be determined as follows:

(a) In a district of the first class, venue shall be in the county where the civil infraction occurred.

(b) In a district of the second class, venue shall be in the district where the civil infraction occurred.

(c) In a district of the third class, venue shall be in the political subdivision where the civil infraction occurred, except that when the violation is alleged to have taken place within a political subdivision where the court is not required to sit, the action may be heard or an admission entered in any political subdivision within the district where the court is required to sit.

(7) For purposes of venue, a city which is located in more than 1 county and which is placed in 1 district of the first class by chapter 81, shall be considered a part of that county which contains the greater portion of its population.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 333, Imd. Eff. Nov. 4, 1969;—Am. 1974, Act 319, Imd. Eff. Dec. 15, 1974;—Am. 1978, Act 511, Eff. Aug. 1, 1979.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.8317 Powers of district court.

Sec. 8317. The district court has the same power to issue warrants; subpoena witnesses; and require the production of books, papers, records, documents, and other evidence; and to punish for contempt as the circuit court now has or may hereafter have. The district court and the several judges thereof may provide for pleadings and motions; issue process and subpoenas; compel the attendance and testimony of witnesses; enter and set aside defaults and default judgments; allow amendments to pleadings, process, motions, and orders; order adjournments and continuances; appoint attorneys to represent indigent persons accused of misdemeanors or ordinance violations as defined in section 1(h) and (j) of chapter 1 of Act No. 175 of the Public Acts of 1927, being section 761.1 of the Michigan Compiled Laws; make and enforce all other writs and orders; and do all other things necessary to hear and determine matters within the jurisdiction of the court as provided by law. This section shall not be construed as an independent grant of jurisdiction in actions for injunctions, divorce, or actions which are historically equitable in nature. The judges and clerks of the district court and district court magistrates may administer oaths and affirmations and take acknowledgments of instruments in writing.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1974, Act 52, Imd. Eff. Mar. 26, 1974;—Am. 1984, Act 278, Eff. Jan. 1, 1985.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.8318 Pleadings and procedures; rules.

Sec. 8318. Pleadings and procedures in the district court shall be governed by rules established by the supreme court and the district court under supervision of the supreme court, except as otherwise provided by law.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.8321 Civil process; service.

Sec. 8321. (1) Civil process in the district court shall be served by a sheriff, deputy sheriff or a court officer appointed by the judges of the court for that purpose, except that officers of the department of state police or conservation officers of the department of natural resources may serve civil process in any action to which the state is a party and police officers of an incorporated city or village may serve civil process in any action to which the incorporated city or village is a party.

(2) Under rules of the supreme court, any other person may serve any process or order of the district court that does not require the seizure, attachment, or garnishment of property or the arrest of a person. This section applies notwithstanding section 1908.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.8323 District court; witnesses, fees; payment.

Sec. 8323. Witnesses in the district court shall be entitled to receive the same fees and mileage allowances to which witnesses in circuit court are entitled. Where the county is responsible for such expenses in the circuit court, the district control unit for the place where the trial occurs shall be responsible for such expenses in the district court.

History: Add. 1969, Act 269, Eff. Sept. 1, 1969.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.8326 Service of process; schedule of fees; mileage rate.

Sec. 8326. The schedule of fees and the rate for mileage provided in section 2559 shall be the fees and the rate of mileage for process served out of the district court.

History: Add. 1979, Act 182, Imd. Eff. Dec. 19, 1979;—Am. 1982, Act 173, Eff. Sept. 1, 1982.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.8331 Proceedings to be recorded.

Sec. 8331. All proceedings in the district court, except as otherwise provided by law or supreme court rule, shall be recorded.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1986, Act 308, Eff. Jan. 1, 1987;—Am. 2005, Act 326, Imd. Eff. Dec. 27, 2005.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.8371 Filing fees paid to clerk of district court; disposition; waiver or suspension; exception; filing fee for civil action; fee in trial by jury; motion filing fees.

Sec. 8371. (1) In the district court, the fees prescribed in this section shall be paid to the clerk of the court.

(2) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of \$150.00 if the amount in controversy exceeds \$10,000.00. For each fee collected under this subsection, the clerk shall transmit \$31.00 to the treasurer of the district funding unit in which the action was commenced, and shall transmit the balance to the state treasurer for deposit in the civil filing fee fund created by section 171.

(3) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of \$65.00 if the amount in controversy exceeds \$1,750.00 but does not exceed \$10,000.00. For each fee collected under this subsection, the clerk shall transmit \$23.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than \$5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the \$5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all \$23.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created by section 171.

(4) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of \$45.00 if the amount in controversy exceeds \$600.00 but does not exceed \$1,750.00. For each fee collected under this subsection, the clerk shall transmit \$17.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than \$5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the \$5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all \$17.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created by section 171.

(5) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of \$25.00 if the amount in controversy does not exceed \$600.00. For each fee collected under this subsection, the clerk shall transmit \$11.00 to the treasurer of the district funding unit in which the action was commenced, of which not less than \$5.00 shall be used by the district funding unit to fund a drug treatment court if one is planned, established, or operated in that judicial district. If the entire amount attributable to the \$5.00 portion is not needed for the operation of a drug treatment court, the balance that is not needed for that purpose shall be used for the operation of the district court. If a drug treatment court is not planned, established, or operated in that judicial district, all \$11.00 shall be used for the operation of the district court. The clerk of the district court shall transmit the balance of the filing fee to the state treasurer for deposit in the civil filing fee fund created by section 171.

(6) The judge shall order payment of any statutory fees waived or suspended if the person subject to the fee is receiving public assistance or is determined by the court to be indigent.

(7) Neither this state nor a political subdivision of this state shall be required to pay a filing fee in a civil infraction action.

(8) Except for civil actions filed for relief under chapter 43, 57, or 84, if a civil action is filed for relief other than money damages, the filing fee shall be equal to the filing fee in actions for money damages in excess of \$1,750.00 but not in excess of \$10,000.00 as provided in subsection (3) and shall be transmitted in the same manner as a fee under subsection (3) is transmitted. If a claim for money damages is joined with a

claim for relief other than money damages, the plaintiff shall pay a supplemental filing fee in the same amount as required under subsections (2) to (5).

(9) If a trial by jury is demanded, the party making the demand at the time shall pay the sum of \$50.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The sum shall be taxed in favor of the party paying the fee, in case the party recovers a judgment for costs. For each fee collected under this subsection, the clerk shall transmit \$10.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d.

(10) A sum of \$20.00 shall be assessed for all motions filed in a civil action. A motion fee shall not be assessed in a civil infraction action. For each fee collected under this subsection, the clerk shall transmit \$10.00 to the state treasurer for deposit in the state court fund created in section 151a and the balance shall be transmitted to the treasurer of the district funding unit for the district court in the district in which the action was commenced.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 248, Eff. Jan. 1, 1971;—Am. 1971, Act 202, Eff. Jan. 1, 1972;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1982, Act 511, Eff. Jan. 1, 1983;—Am. 1984, Act 278, Eff. Jan. 1, 1985;—Am. 1988, Act 310, Eff. Jan. 1, 1989;—Am. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1992, Act 292, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 189, Eff. Oct. 8, 1993;—Am. 1996, Act 388, Eff. Jan. 1, 1998;—Am. 2002, Act 605, Eff. Jan. 1, 2003;—Am. 2003, Act 138, Eff. Oct. 1, 2003;—Am. 2003, Act 178, Eff. Oct. 1, 2003;—Am. 2005, Act 151, Imd. Eff. Sept. 30, 2005.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.8375 Assessment of costs.

Sec. 8375. The district court may assess the same costs as are permitted in the circuit court. In civil infraction actions, the district court may assess costs as provided in section 907 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.907 of the Michigan Compiled Laws, section 8727, or section 8827, as applicable. A district court magistrate may assess costs in an amount fixed by rule of the district court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1994, Act 12, Eff. May 1, 1994;—Am. 1995, Act 54, Eff. Jan. 1, 1996.

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.8379 Fines and costs assessed in district court; payment; disposition; definitions.

Sec. 8379. (1) Fines and costs assessed in the district court shall be paid to the clerk of the court who shall appropriate them as follows:

(a) A fine imposed for the violation of a penal law of this state and a civil fine ordered in a civil infraction action for violation of a law of this state shall be paid to the county treasurer and applied for library purposes as provided by law.

(b) In districts of the first and second class, costs imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state shall be paid to the treasurer of the county in which the action was commenced. In districts of the third class, costs imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state shall be paid to the treasurer of the political subdivision where the guilty plea or civil infraction admission was entered or where the trial or civil infraction action hearing took place.

(c) Except as provided in subsection (2), in districts of the first and second class, 1/3 of all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated and 2/3 shall be paid to the county in which the political subdivision is located. In districts of the third class, all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated, except that where fines and costs are assessed in a political subdivision other than the political subdivision whose law was violated, 2/3 shall be paid to the political subdivision where the guilty plea or civil infraction admission was entered or where the trial or civil infraction action hearing took place and the balance shall be paid to the political subdivision whose law was violated.

(d) In a district of the third class, if each political subdivision within the district, by resolution of its governing body, agrees to a distribution of fines and costs, other than fines imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, differently than as provided by this section, the distribution of those fines and costs among the political subdivisions of that district shall be as agreed to. An existing agreement applicable to the distribution of fines and costs shall

apply with the same effect to the distribution of civil fines and costs ordered in civil infraction actions.

(e) A civil fine imposed upon a person for violation of a provision of a code or an ordinance of a political subdivision of this state regulating the operation of a commercial vehicle that substantially corresponds to a provision of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, shall be paid to the county treasurer and allocated as follows:

(i) Seventy percent to the political subdivision in which the citation is issued.

(ii) Thirty percent for library purposes as provided by law.

(f) A civil fine imposed upon a person for violation of a provision of a code or an ordinance regulating the operation of a commercial vehicle adopted by a city, township, or village pursuant to section 1 of 1956 PA 62, MCL 257.951, shall be paid to the county treasurer and allocated as follows:

(i) Seventy percent to the political subdivision in which the citation is issued.

(ii) Thirty percent for library purposes as provided by law.

(2) In the fifty-second district, 30% of all fines and costs, other than those imposed for the violation of a penal law of this state or ordered in a civil infraction action for the violation of a law of this state, shall be paid to the political subdivision whose law was violated and 70% shall be paid to the county in which the political subdivision is located. This subsection shall apply only if the consolidation of the forty-fifth-b district with the fifty-second district, as provided in section 8123, takes place pursuant to section 8177.

(3) As used in subsection (1)(e) and (f):

(a) "Commercial vehicle" includes a motor vehicle used for the transportation of passengers for hire or constructed or used for transportation of goods, wares, or merchandise and a motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load on the vehicle independently or any part of the weight of a vehicle or load so drawn.

(b) "Operation" means being in actual physical control of a vehicle regardless of whether the person is licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, as an operator or chauffeur.

(c) "Person" means every natural person, partnership, association, or corporation and their legal successors.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1969, Act 239, Eff. Sept. 1, 1969;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1979, Act 67, Eff. Aug. 1, 1979;—Am. 1990, Act 54, Imd. Eff. Apr. 11, 1990;—Am. 2000, Act 93, Imd. Eff. May 15, 2000.

Compiler's note: Section 2 of Act 54 of 1990 states: "If a new judicial circuit of the circuit court is created under this amendatory act pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1991. If the fifty-sixth judicial circuit is created pursuant to this amendatory act, the incumbent judge of the fifth judicial circuit who resides in Eaton county shall become the judge of the fifty-sixth judicial circuit on January 1, 1991, and shall serve until the term for which he or she was elected in the fifth judicial circuit expires."

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

600.8381 Fines and costs; convictions; civil infraction determinations, guilty pleas, or civil infraction admission; disposition; court filing fee report; definitions.

Sec. 8381. (1) Until October 1, 2003, when fines and costs are assessed by a magistrate, a traffic bureau, or a judge of the district court, not less than \$9.00 shall be assessed as costs and collected for each conviction or civil infraction determination and each guilty plea or civil infraction admission except for parking violations. Of the costs assessed and collected, for each conviction or civil infraction determination and each guilty plea or civil infraction admission, \$9.00 shall be paid to the clerk of the district court.

(2) The clerk of the district court, on or before the fifteenth day of the month following the month in which costs are collected under subsection (1), shall transmit the following amounts:

(a) Until October 1, 2003, the clerk shall transmit 45 cents of the costs collected to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, and shall transmit \$8.55 of the costs collected to the state treasurer. Of each \$8.55 received, the state treasurer shall deposit 30 cents in the legislative retirement fund created by the Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080; \$4.25 in the court equity fund created under section 151b; and shall deposit the balance in the state court fund created by section 151a.

(b) Beginning October 1, 2003, the clerk shall transmit \$9.00 of any costs assessed before October 1, 2003 to the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(3) Until October 1, 2003, the clerk of the district court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, at the same time the clerk of the district court transmits the portion of the costs collected under this section to the executive secretary.

(4) Beginning October 1, 2003, when fines and costs are assessed by a judge or district court magistrate, the defendant shall be ordered to pay costs of not less than \$45.00 for each conviction for a serious misdemeanor or a specified misdemeanor or costs of not less than \$40.00 for each conviction for any other misdemeanor or ordinance violation.

(5) Beginning October 1, 2003, when fines and costs are assessed by a judge or district court magistrate in a civil infraction action, the defendant shall be ordered to pay the state assessment required by section 8727 or 8827 of this act or by section 907 of the Michigan vehicle code, 1949 PA 300, MCL 257.907.

(6) As used in this section:

(a) "Ordinance violation" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(b) "Serious misdemeanor" means that term as defined in section 61 of the crime victim's rights act, 1985 PA 87, MCL 780.811.

(c) "Specified misdemeanor" means that term as defined in section 1 of 1989 PA 196, MCL 780.901.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968;—Am. 1970, Act 248, Eff. Jan. 1, 1971;—Am. 1975, Act 324, Imd. Eff. Jan. 2, 1976;—Am. 1978, Act 511, Eff. Aug. 1, 1979;—Am. 1992, Act 233, Eff. Mar. 31, 1993;—Am. 1993, Act 189, Imd. Eff. Oct. 8, 1993;—Am. 1996, Act 374, Eff. Oct. 1, 1996;—Am. 2003, Act 96, Eff. Oct. 1, 2003.